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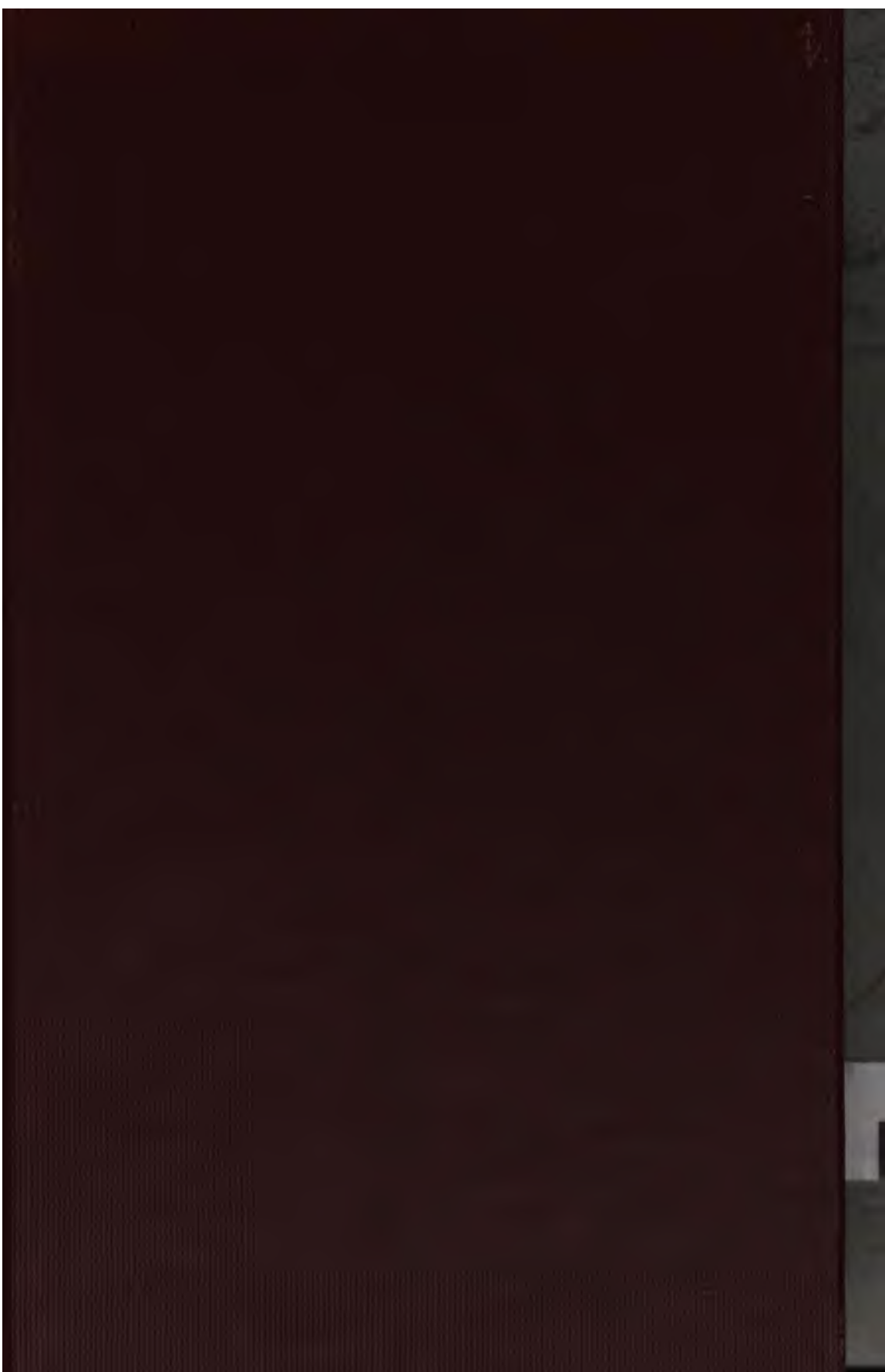
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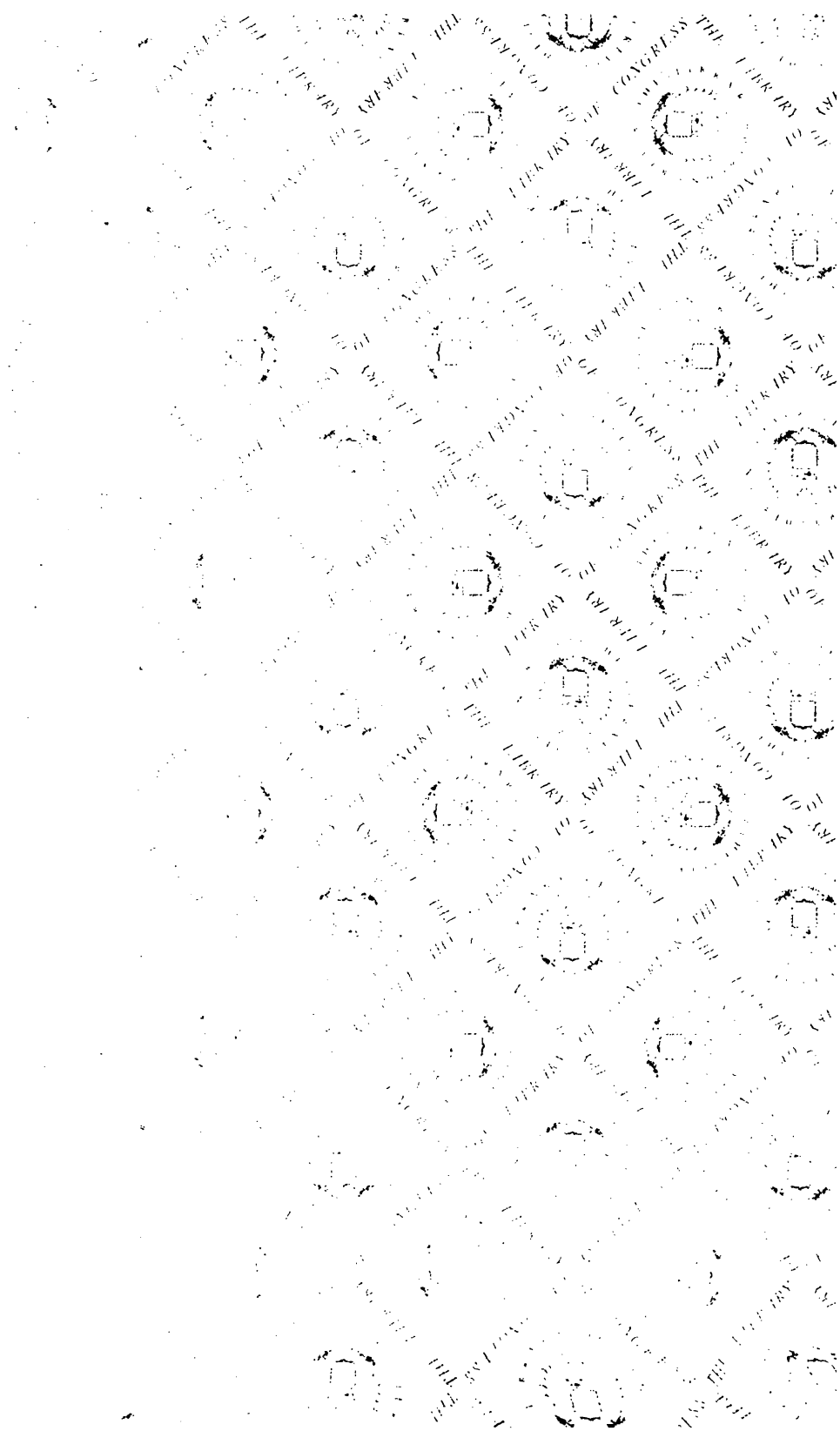
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**AFFRAY
AT BROWNSVILLE, TEX**

HEARINGS

BEFORE THE

**COMMITTEE ON MILITARY AFFAIRS
UNITED STATES SENATE,**

CONCERNING

**THE AFFRAY AT BROWNSVILLE, TEX.
ON THE NIGHT OF AUGUST
13 AND 14, 1906.**

VOL. 2.

**WASHINGTON:
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AFFRAY AT BROWNSVILLE, TEX.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Monday, March 11, 1907.

The committee met at 10.30 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, and Overman.

Senator FORAKER. I want to inquire whether the shells that were taken away by the Secretary of War have been returned.

The CHAIRMAN. I do not think they have.

Senator FORAKER. I wish that a letter might be sent to the Secretary of War asking him to return those shells if he can do so conveniently.

Senator WARNER. Do you want this in the record?

Senator FORAKER. Yes; I should like it to appear in the record. I should also like to have a request sent to the Secretary of War that he send us the report which I understand has been made of what I have been told is a microscopic examination of these shells, made at the arsenal at Springfield. I need that, because I may want to call some

witnesses with respect to it, if it is of such a nature it to be. I want the benefit of that. If I could hear morning it would be quite convenient.

The CHAIRMAN. We will ask them to send them venient, or as soon as they can.

Senator FORAKER. Yes; with somebody who can should like to know at what time they can do it, if at once.

The CHAIRMAN. Very well.

Senator FORAKER. Walker McCurdy was examined ago and dismissed. He has been subpoenaed at the Warner, as I understand it. He is present. He is in the mess at Fort Sam Houston, and I think, under the had better let him be recalled first.

The CHAIRMAN. Then let Mr. McCurdy be recalled.

TESTIMONY OF WALKER M'CURDY (COLORED)

WALKER M'CURDY (colored), a witness previously recalled, testified as follows:

By Senator WARNER:

Q. Sergeant, how many guns—how many Springfield rifles issued to your company?—A. Seventy, sir.

Q. How many were in the hands of the men, issued?—A. I don't know, sir, how many were in the hands of the men.

Q. You can not tell?—A. No, sir.

Q. Can you tell approximately?—A. I think there were about 57.

Q. Well, how many were there?—A. I don't know, sir, not tell.

Q. You say there should have been 57 issued?—A. Yes, sir, should have been somewhere about 57 in the hands of the men.

Q. You kept your gun in your quarters?—A. Yes, sir.

Q. What was the number of your gun?—A. I forgot the number of my gun was.

Q. Each soldier knew his gun from the number?

Q. No other mark upon the gun to designate it?—A. No, sir.

Q. Then do you remember what the numbers of your gun were?

A. No, sir; I could not remember all the numbers.

Q. That is, did they commence, for instance, at 1 and run up consecutively?—A. Yes, sir.

Q. But you do not know the lowest number nor the highest?—A. No; I don't remember that.

Q. For instance, if it commenced at 1 it would be 57?—A. Yes, sir.

Q. Not that it did commence that way, of course, but you understand you.

Q. These guns that you had in the storeroom kept?—A. They were kept in the arm chest.

Q. That was in the room adjoining the room in which you slept?—
A. Yes, sir.

Q. How many of those guns were out of the chest, excepting those in the hands of the men?—A. Only mine.

Q. Did any other noncommissioned officer keep his gun out of quarters?—A. No, sir; not as I know of; I don't know of any.

Q. Do you know whether they did or not?—A. No, sir; they was not supposed to keep them out.

Q. Well; but do you know?—A. No, sir; I don't.

Q. This chest in which the guns were kept, the top was screwed down?—A. Yes, sir; I think there is ten screws in each chest.

Q. When had you opened that chest?—A. It had not been opened since I left Niobrara.

Q. The same number of guns were in there that were in there when you left Niobrara?—A. Yes, sir.

Q. When a man was discharged his gun was taken up, of course?—
A. Yes, sir.

Q. And you would know whether he turned in the right gun by the number?—A. Yes, sir; because the number was kept on the book there—the company property book. All the numbers were on that, each man's number opposite his name.

Q. Of course, as you say, you can not remember the individual number?—A. No, sir.

Q. Do not remember the number of your own gun?—A. No, sir; I do not; I disremember it now. It is so long I can't tell that.

Q. You had some difficulty in getting into the storeroom?—A. Yes, sir; I could not find the right key in the dark.

Q. How many keys did you have?—A. Two keys; the door had two locks on it.

Q. And you had two keys?—A. Yes, sir.

Q. So it would be one of the two that would have opened it?—A. Oh, I had a bunch of keys, but there were two keys belonging to the storeroom door.

Q. What other keys did you have?—A. Had keys to all the other doors of the quarters.

Q. All on the same ring?—A. Yes, sir.

Q. But they were an entirely different kind of key, were they not?—A. Yes, sir. I had several padlock keys on there, but could not tell in the dark by feeling of them—could not tell what key I wanted.

Q. Was this key to the storeroom door a padlock?—A. Yes, sir; one of them was, and the other was like an ordinary lock that was put on a door.

Q. And the ammunition that you had there when you were at Fort Brown was what kind?—A. Springfield ammunition.

Q. What kind of cartridges?—A. The steel-jacketed cartridge.

Q. The steel-jacketed ball cartridge?—A. Yes, sir.

Q. That property book, in which the numbers of the guns were kept—where would that be now, Sergeant?—A. It is in the company, sir.

Q. With the company?—A. Yes, sir.

Q. You left it there, of course, when you left?—A. Yes, sir; I left it there when I was discharged.

Senator WARNER. I think that is all I want to ask.

Senator FORAKER. I would like to ask a few questions.

Q. Where do you live now?—A. El Reno, Okla.

Q. Did you return there after you were dismissed the other day?

A. Yes, sir.

Q. And when you were resubpoenaed, you were found there?

Yes, sir.

Q. And you have just returned here on the subpoena?

Yes, sir.

Q. Now, first as to the numbers of these rifles. How many Springfield rifles numbered? Has each company a separate numbers?—A. Yes, sir; each company.

Q. Or are they numbered from the beginning on, according to the number of guns that are manufactured or distributed?—A. In the way they are distributed, sir, but we get a certain set of numbers. Say we commence at 7000 or 8000, we go on up until we get to 10,000.

Q. That is what I want to get at. Your first number is as high as seven or eight or ten thousand?—A. Yes, sir.

Q. In other words, the guns are all numbered as they are manufactured?—A. Yes, sir.

Q. Commencing with 1 and running on into the thousands?

Yes, sir.

Q. Do you know where you did commence—in what the number was?

A. I think we commenced in the thirty-threes; I am not sure.

Q. In 33000?—A. I think we did; I am not sure.

Q. Something like that?—A. Yes, sir.

Q. But wherever you commenced you would have 7000 numbers?—A. Yes, sir.

Q. And when the guns were issued there was a record kept?—A. Oh, yes; there was a record kept in the company property book. Everything that is issued to a soldier is kept on the company property book.

Q. You were the quartermaster's sergeant?—A. Yes.

Q. That was your business, to keep them?—A. Yes.

Q. So on the company's property book would appear the number of each soldier and the number of the gun issued to him?

Q. So that with that book before us we could identify any particular number?—A. Yes, sir.

Q. Any particular number of gun that had been issued to the company?—A. Yes, sir.

Q. You don't remember what the number of the gun was?

No, sir.

Q. But the company property book will show the number of the gun?

Q. Shows every man's number?—A. The number of the gun in the company.

Senator FORAKER. We will try to get the company property book.

By the CHAIRMAN:

Q. Each man was charged with a gun by number?

Q. You identified his gun from time to time?

Yes, sir.

Q. No other marks on them to identify the owner?

turer's number?—A. No, sir.

By Senator FORAKER:

Q. There is a gun right behind you of the kind you carried, as I understand. I wish you would look at it and point out the number on that gun, where it is on the gun, and exhibit it to the committee. Is that the kind of gun you had?—A. Yes, sir.

Senator FOSTER. What is the number of that gun?

By Senator FORAKER:

Q. I was just about to ask you what is the number of that gun?—A. No, 193911.

Q. And that number is on what part of the gun?—A. The breech.

Q. Just in front of the chamber?—A. Yes, sir.

Q. And it is there on every one of those guns?—A. Yes, sir; every one of them.

Q. I will read all that is here: "U. S., Springfield Armory, model 1903, 193911." That is a pretty big number. It is only your best recollection that your numbers commenced in the 33000?—A. I think they did, sir; I am not positive.

Q. Now, you say there were 70 guns issued to your company?—A. Yes, sir.

Q. They were issued to you, as this record shows, on the last of March, 1906, at Fort Niobrara?—A. Somewhere about that.

Q. At that time the guns were distributed to the different men?—A. Yes, sir.

Q. Now, you told the Senator, in answer to his question, that you could not tell now how many guns were in the hands of the men and how many were in the box—in the arm chest.—A. No, sir; I could not tell, because I did not count them.

Q. That was not a part of your business?—A. No, sir; I know all the rifles that was not in the hands of the men, they was in the storeroom.

Q. You had charge of the rifles that were in the storeroom?—A. Yes, sir.

Q. Before you left Fort Niobrara you had some extra guns, I suppose from what you say, some guns that were not in the hands of the men? You had in your company some of these 70 guns that were not in the hands of the men?—A. Yes, sir.

Q. They were in your charge, were they?—A. Yes, sir.

Q. Now, tell us in what way they were boxed up and taken to Fort Brown.—A. They were all oiled with this cosmoline oil and packed in the arm chest, just the same as we received them from the arsenal.

Q. Can you give us an idea about how many there were in that arm chest?—A. I know I had one arm chest full. There is ten to a chest.

Q. Ten in a chest?—A. Yes, sir.

Q. You had one arm chest full?—A. Yes, sir.

Q. And then you had some others in another arm chest?—A. Yes, sir.

Q. Can you tell us how many there were?—A. I don't know, sir, about how many were in the other.

Q. Can you give us some idea—12, 13, or 14?—A. Why, I thought I had about 15 or 17; I am not sure.

Q. You can not give us the number, as I understand?—A. No, sir.

Q. They were boxed up and oiled, were they, before they were boxed up?—A. Yes, sir; they were all oiled.

Q. In what way, if at all, were they fastened in the s
A. They were fastened—the lid was fastened by 10 screw

Q. If you only had three or four guns in a box, or five
box that was made to hold ten, they would rattle around
not?—A. No, sir. There is cleats in there. They are fast

Q. Explain that.—A. Cleats on the inside of the box
go across to hold the rifle steady. If there is not but one
can ship it just as safe as if it was full.

Q. Were there cleats in this box or not?—A. Yes, sir.

Q. Did you box them up at Niobrara?—A. Yes, sir.

Q. Did anybody assist you in boxing them up, or super
No, sir; I boxed them up all alone myself.

Q. When you got to Fort Brown what was done with
that held those surplus guns?—A. They were put in the
sir.

Q. And that was in your charge?—A. Yes, sir.

Q. Were they under lock and key there or not?—
always.

Q. Where were those guns the night of the firing, if y
A. In the storeroom, sir.

Q. How do you know they were there? Did you mak
ination?—A. Yes, sir; the lieutenant examined them.
lantern and went in there—I don't know exactly what
but I judged it was probably about 3 or 4 o'clock.

Q. Three or 4 o'clock in the morning?—A. Yes, sir.

Q. You went in there with whom to examine them?
ant Lawrason.

Q. He was your company commander?—A. Yes, sir.

Q. How did you happen to go in there with him?—
me to go into the storeroom.

Q. He came and told you he wanted to go in there?—

Q. What did you do when you got in there?—A. I
I had a lot of bunks on top of the arm chest. I taken
my screw-driver, and opened the boxes.

Q. Did he tell you what he wanted to do?—A. He
until after he got in the storeroom, and then he told n
examine the arm chest.

Q. Did you open the arm chest or not?—A. Yes, sir.

Q. Did you and he examine the arm chest?—A. Ye

Q. What then? Did you find the guns in there o
sir; found the guns just like I packed them at Fort

Q. Had they been disturbed at all, as far as you co
No, sir; had not been disturbed at all.

Q. You spoke of cleats to hold the guns down.
still to hold the guns in position?—A. Yes, sir; ju
them at Niobrara.

Q. Did you and the lieutenant count the gun
counted them. I did not count them. I just go
he could count them.

Q. You put them out there so he could count tl

Q. What was the result of that count?—A. I
fied, because he did not say anything, sir.

.?— Q. At that time you and he knew how many guns ought to be there, didn't you?—A. Yes, sir; he knew how many was out in the gun racks; I did not.

in a hey vn. ces you Q. He had been to the gun racks, had he?—A. Yes, sir; he knew how many was out in the company.

Q. You also had some revolvers?—A. Yes, sir.

Q. Where were they?—A. Packed in one of those arm chests.

Q. Where were they so packed?—A. In the storeroom.

-A. Q. No; I mean where did you pack them in the arm chest?—A. Packed them in the arm chest—packed a lot of paper and everything around them.

yes m. Q. Did you put them in the arm chest at Niobrara before you left there?—A. Before I left Niobrara.

Q. At Fort Niobrara?—A. Yes, sir.

ir; — Q. Had that box been opened before this firing after you came to Brownsville?—A. No, sir; it had not been touched.

— Q. Now, when you opened the revolver box in what condition did you find the revolvers? Were they there or not?—A. They were all just like I packed them at Fort Niobrara.

n-he is, Q. And when you went into the storeroom the lieutenant told you to open these boxes, and you found the arm chest under a lot of bunks?—A. Yes, sir.

n- Q. How did they happen to be under a lot of bunks?—A. My storeroom was so small I did not have room to put everything separate; and as I did not have any use for the guns right away, I put my empty bunks on top of them.

ed Q. Where was this box that contained the revolvers?—A. That was under the bunks.

Q. Under there also, was it?—A. Yes, sir.

. Q. Apparently had they been disturbed in any way?—A. No, sir; they had not.

nd en Q. Had they been in your possession ever since you arrived at Brownsville?—A. Ever since I arrived there and got my storeroom straightened up.

ne to Q. It was not your business to count the guns in the gun racks, as I understand it?—A. No, sir.

Senator FORAKER. I believe that is all.

By Senator WARNER:

s, Q. It was your business to know how many guns were issued to the men, because you issued them, didn't you?—A. Yes, sir; I attended to that.

l. Q. That was a part of your business?—A. Well, I always kept it on the books, if I wanted to see how many it was.

e d Q. That was your business, to issue the guns to the men. Nobody else had a right to issue them to the men?—A. No, sir; nobody only the company commander.

e Q. How many revolvers did you have?—A. I had nine, sir.

Q. Which of the arm chests were they in?—A. I didn't know what the number of the arm chest was. It was in one of the arm chests.

Q. How many arm chests did you have?—A. I had seven.

Q. In the storeroom?—A. Yes, sir.

Q. You say it was between 3 and 4 o'clock of the morning after

the shooting—that is, the night of the 13th-14th?—A. I think it was about, yes, sir; because I know it was after I missed the men, all except the company that was on guard.

Q. What reason did Lieutenant Lawrason give for wanting to count these guns in there?—A. I did not ask him.

Q. It was a very unusual proceeding, was it not?—A. Something I never had to do before.

Q. Never had it happen to you before?—A. No, sir.

Q. He said nothing?—A. No, sir.

Q. No reason whatever?—A. No, sir.

Q. Said he wanted to count the guns in the arm chest?—

Q. You were interested in seeing that the guns were all counted?—A. Yes, sir; I opened them up. I did not know what he wanted.

Q. And you could not tell how many guns there were?—A. I could not. I did not pay that much attention to them. He looked them over and they were all full of cosmoline oil and seemed to be satisfied with nothing, and I did not ask him any questions about it.

By Senator FORAKER:

Q. Are noncommissioned officers in the habit of asking enlisted officers their reasons for doing things?—A. I never and it is a very unusual thing for any enlisted man to receive an order, all he has to do is to go and obey it.

By Senator WARNER:

Q. My question is, Lieutenant Lawrason said nothing about his reason?—A. No, sir; he did not say anything. I wanted to inspect my gun chest.

Q. You had not been upstairs with him?—A. No, sir; I was not upstairs with him at all.

By Senator OVERMAN:

Q. Did you suspect what his reason was for doing that?—A. I thought after he inspected them he wanted to see if they had been taken out, I guess. I thought—

Q. Do you know anything about 15 or 20 men being over in Matamoros that day of the shooting?—

Q. Do you know of anybody being over there?—A. Anybody. I never was over there myself and I don't know anybody being over there.

By Senator FOSTER:

Q. There was an inspection of your company that day?—A. Yes, sir.

Q. Did all the members of your company pass inspection?—A. Except the members of the guard.

Q. Were any of the members of your company having their arms reinspected?—A. Yes, sir; there were some, I remember how many.

Q. Why were there arms reinspected?—A. Do you know, sir; I don't, because I heard no one say.

Q. They did not pass the first inspection, did they?—A. I guess not. Lieutenant Lawrason stepped th

Q. They were stepped back and then their arms were reinspected?—A. Reinspected by Captain Lyon and Major Penrose.

Q. Were you present at that reinspection?—A. Yes, sir.

Q. How was that reinspection made?—A. Made with a cloth; took a brass wiping rod and a clean cloth and run it through the gun barrel thoroughly.

Q. Who made that reinspection?—A. Captain Lyon assisted by Major Penrose. Major Penrose was there himself along with him.

Q. Do you know the names of those six or seven men who did not pass the first inspection?—A. No, sir; I don't; I could not think of them now.

Q. Can you remember the names of any of them?—A. I know one man there by the name of Taylor. I remember him, a man by the name of Taylor, and I can't think of the rest.

By Senator OVERMAN:

Q. Was he the man that had the difficulty out in town?—A. No, sir; none of our men—none of B Company—never had no trouble that I know of. I never heard any one speak of having any trouble out there.

By Senator FOSTER:

Q. It was necessary, then, to use a rod and a rag in order to discover whether or not their rifles were in a proper condition, was it?—A. Yes, sir.

Q. Now, is the inspection made by looking through the barrel of the rifle?—A. Yes, sir; looking through it to see if it is foul in any way.

Q. Then, when the first inspection was made, these officers believed that these six or seven men's guns were foul, did they not?—A. I suppose so. I did not hear them say.

Q. They were in a different condition, anyway, from the others?—A. From what they should be for a general inspection.

Q. Can you look through the bore of a rifle and tell whether or not it has been fired without the use of the rag and the ramrod?—A. Oh, yes, sir; I have looked through guns that has been fired that has not been cleaned.

Q. These guns had evidently not been cleaned, in the estimation at least of Major Penrose and Captain Lyon?—A. I don't know what they were.

Q. They were not fit to pass muster or inspection at the first round?—A. I don't know what the result of Captain Lyon's and Major Penrose's inspection was. I was close to them, but I did not see any.—

Q. The result of the first inspection, however?—A. That was by Lieutenant Lawrason.

Q. That they had those six or seven men step out and have their guns reinspected?—A. Yes, sir.

Q. And you don't know what the result of that reinspection was?—A. No, sir; I don't, although I was right there; because I passed the cloths to the major myself, and did not see any dirty cloths that had passed through the guns.

By Senator LODGE:

Q. Sergeant, I should like to ask you, were there any other guns in the storeroom except those in the arm chest?—A. My rifle was in there, sir.

Q. That was the only one?—A. Yes, sir.

Q. There were no other guns except those that were locked up or shut up in the chest?—A. That is the only ones, only mine, sir.

By Senator FOSTER:

Q. Who was the officer in command of your company at that time?—A. Lieut. George B. Lawrason, sir.

Q. And Captain Lyon was in charge of what company?—A. D Company, sir.

By Senator FORAKER:

Q. Is it or is it not an unusual thing to find a few guns on any inspection in a company of 50 men that the officer desires to reinspect?—A. Oh, that is often, every Saturday that happens, sir.

Q. You have your inspection once a week, on Saturday?—A. Yes, sir.

Q. The guns sometimes accumulate a little dust or something?—A. Sometimes a man will let them rust. In the damp weather they will rust, and nearly every Saturday there is two or three men probably have to have a reinspection.

Q. These officers did not explain to you why they wanted to reinspect those particular guns?—A. No, sir; I had no right to ask them.

Q. You were asked a while ago whether this was not an unusual experience for you to be called upon to open up the arm chest at 3 or 4 o'clock in the morning, and you answered that it was. It was also an unusual experience for you to have a shooting affray of that kind in the nighttime, was it not?—A. Why, yes, sir; right here in the United States; yes, sir.

Q. The whole thing was unusual?—A. Yes, sir.

By Senator FOSTER:

Q. If those guns were rusty the rust would appear upon the rags, would it not?—A. Yes, sir.

Q. If they were unclean in any way or foul?—A. If they were foul in any way the powder would turn the cloth black.

By Senator WARNER:

Q. I just want to ask one question. Sergeant. Your regular inspections were on Saturday of each week?—A. Yes, sir.

Q. You had had your inspection on the Saturday previous to this Monday?—A. Yes, sir.

Q. You were present at inspection then?—A. Yes, sir.

Q. The guns all passed inspection then, did they?—A. Well, I think there was one or two men was stepped back. It happened so regularly that men stepped back for not having clean guns.

Q. You think one or two had their guns reinspected?—A. Yes, sir.

Q. Then this happened on Monday night?—A. Yes, sir.

Q. That those guns were found there which were not in good condition, on the morning of the 14th?—A. On the morning of the 14th between 6 and 7 o'clock.

By Senator FORAKER:

Q. You had been on a practice march on Monday, had you not, your company?—A. Yes, sir.

Q. Out with their guns?—A. Yes, sir.

Q. How far had you gone?—A. We had made 12 miles.

Q. Out into the country?—A. Yes, sir.

Q. Six miles out and 6 miles back?—A. Yes, sir.

Q. Now about these guns, you said just a minute ago, as I understood you, that you went and got the rags for Captain Lyon?—A. Yes, sir; I did.

Q. With which he reinspected these guns?—A. Yes, sir.

Q. Who told you to get them?—A. Major Penrose.

Q. What kind of rags were they?—A. Some pieces of old condemned sheets.

Q. White in color?—A. Yes, sir; perfectly clean.

Q. And you saw them inspecting these guns with the use of these rags?—A. Yes, sir.

Q. What was the result of that inspection?—A. I don't know, sir. I never heard either one of them say.

Q. Never heard any of them say. What did the men do, if you know, after their guns were reinspected?—A. They inspected them and told them to join their company for guard.

Q. The company had already gone out, had been posted behind the wall?—A. They were posting the company at that time.

By Senator WARNER:

Q. This was in the morning at 6 o'clock?—A. Yes, sir.

By Senator FORAKER:

Q. At 6 o'clock in the morning, and B Company had been sent out to relieve C Company, had it not?—A. Yes, sir.

Q. After B Company was inspected the company itself, with the exception of these six or seven men who were stepped out for re-inspection, the company itself was ordered to relieve C Company?—A. Yes, sir.

Q. And these men as they were inspected were told to join C Company?—A. Told to join C Company.

Q. What did that indicate?—A. Indicated, I suppose, that they did not find any fault with them.

Q. Did not find any fault with their guns?—A. Yes, sir.

Q. Were you there at that time or were you out with your company?—A. I was right there.

Q. You remained there and saw the result?—A. Yes, sir.

Q. Was this rag passed through each gun?—A. Each gun, sir.

Q. By whom?—A. By Captain Lyon.

Q. When he passed it through what did he do? Did he look at it or not?—A. Yes, sir; they taken and examined it, each cloth, as they passed it through the rifle. They took it and examined it—Captain Lyon and Major Penrose.

Q. Were you where you could see whether or not there was any dirt on the rag?—A. I was standing about a couple of paces from them.

Q. Did you see any dirt on the rags?—A. No, sir; I did not see any.

Q. You understood, then, that the guns had passed inspection, didn't you?—A. I thought so after they ordered each man, as his rifle was inspected, to join his company for duty.

By Senator WARNER:

Q. On this practice march there was no firing—no discharge of the guns whatever?—A. No, sir.

Senator WARNER. That is all.

Senator FORAKER. That is all.

TESTIMONY OF JOSEPH H. HOWARD (COLORED).

JOSEPH H. HOWARD (colored), after being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please state your full name.—A. Joseph Henry Howard.

Q. Were you in August last a member of the Twenty-fifth United States Infantry?—A. Yes, sir.

Q. What company did you belong to?—A. Company D.

Q. Who was the captain of that company?—A. Captain Lyon.

Q. Were you with that company at Brownsville, Tex., in August last?—A. Yes, sir.

Senator FORAKER. I will put in at this point the record of this soldier as furnished by the War Department, and found at page 271 of Senate Document No. 155.

The record is as follows:

JOSEPH H. HOWARD.

Enlisted November 8, 1903; was discharged without honor as a private of Company D, Twenty-fifth Infantry, November 25, 1906.

By Senator FORAKER:

Q. I observe by looking at this record that you were serving your first enlistment?—A. Yes, sir.

Q. This shows that you were enlisted November 8, 1903, and that you were discharged November 25, 1906, without honor, as a private of Company D. That is right, is it?—A. Yes, sir.

Q. In what State did you live before you enlisted?—A. Georgia.

Q. Whereabouts in Georgia?—A. Columbus, Ga.

Q. Where were you enlisted?—A. Phoenix, Ala.

Q. Now, where were you on the night of August 13, when this shooting affray occurred in Brownsville?—A. I was on post in the rear of the soldiers' barracks.

Q. You were on guard that night?—A. Yes, sir.

Q. As a detail from Company D?—A. Yes, sir.

Q. And you were on post?—A. Yes, sir.

Q. Tell us just what happened. Wait a moment until that map at your left is explained to you so that we can understand your testimony. That is a map of the fort and a part of Brownsville. Senator Scott will explain it to you.

(Senator Scott pointed out to the witness the various localities as indicated on the map.)

Q. What post were you on?—A. Post No. 2, sir.

Q. Where is post No. 2?—A. In the rear of the soldiers' barracks.

By Senator SCOTT:

Q. In the rear or in front?—A. In the rear. It extends around the soldiers' barracks.

Q. Clear around the barracks?—A. Yes, sir.

By Senator FORAKER:

Q. That is, your beat extended all the way around?—A. Yes, sir.

Q. In walking your beat did you keep the barracks to your left or to your right?—A. To the left.

Q. So that you walked up toward the guardhouse when you were in front of the barracks?—A. Yes, sir.

Q. And down toward the gate and D barracks when you were in rear of the barracks?—A. Yes, sir.

Q. How near were you to the wall?—A. I was right up by the side of the barracks when I was walking.

Q. Your beat ran right along by the barracks, did it?—A. Yes, sir.

Q. How far would you be from the wall when you were walking your beat in the rear of the barracks?—A. Just about 50 feet.

Q. Now, you say you were on post at the time of this shooting. What time did you go on post that night?—A. Half past 10 o'clock.

Q. Do you remember what relief you belonged to?—A. I think it was the first relief.

Q. Who was the corporal of that relief, if you remember?—A. Corporal Wheeler.

Q. You were in his relief?—A. Yes, sir.

Q. Where were you when the firing commenced?—A. I was in the rear of the barracks, in the interval between B and C Companies' quarters.

Q. What did you hear, and tell us as nearly as you can recollect all that occurred.—A. The first I heard was about two shots down the road.

Q. Whereabouts; what road?—A. Down the road, right outside the gate, along the wall.

By Senator OVERMAN:

Q. Do you mean down toward the river or the other way?—A. No, sir; they were away from the river, down toward the vacant staff barracks.

Q. That is, you stood behind the wall near the gate, as I understood you. Now, do you mean near the gate or near the barracks?—

A. Near the vacant staff barracks.

Q. You heard two shots there?—A. Yes, sir.

Q. Were they inside or outside the wall?—A. They were outside the wall.

Q. Did you see anybody at all about the barracks, up and about at that time?—A. No, sir; not at that present time.

Q. Was there anybody moving about inside this wall behind the barracks at that time?—A. The post scavenger.

Q. Who was that?—A. He is a Mexican. He is the post scavenger.

Q. Is that Matias Tamayo?—A. Yes, sir.

Q. He was post scavenger. Where was he?—A. He was at B Company's sink, over next to the wall.

Q. Over next to the wall?—A. Yes, sir.

Q. How do you know he was there?—A. Because as the firing began he got on his cart and drove off.

Q. Had you seen him before the firing commenced?—A. No, sir.

Q. When the firing commenced what attracted your attention to him?—A. By his wagon rolling off. I heard the noise of his horse and wagon.

Q. Did it make a noise?—A. Yes, sir.

Q. You saw him go away and knew who he was and what it was?—A. I knew it was the scavenger's cart.

Q. Did he come in there or not every night at about that time to do that kind of work?—A. Yes, sir.

Q. Now, you heard two shots. What occurred next?—A. Well, I stopped and looked in that direction—the way I heard the two shots—and then, about thirty seconds after that, I heard a fusillade of shots.

Q. A fusillade of shots?—A. Yes, sir.

Q. Where was the fusillade of shots, as nearly as you can locate it?—A. They were right over to the right of me, across the wall.

Q. That is right behind what barracks?—A. Well, they were to the right of me. I was in the interval between B and C Companies' barracks, and the shooting seemed to be over in that little alley.

Q. There is an alley there, is there?—A. Yes, sir.

Q. And this fusillade seemed to be over about the mouth of that alley?—A. Up in the alley.

Q. Up in the alley?—A. Yes, sir.

Senator FOSTER. What alley does he refer to?

Senator FORAKER. There is an alley between Washington street and Elizabeth street, immediately to his right, where he was posted, in the interval between C barracks and B barracks.

Q. When you heard the fusillade what did you do?—A. I yelled the alarm.

Q. Did you do that in accordance with instructions or not? Was that your duty under such circumstances?—A. Yes, sir.

Q. What alarm did you yell—what did you do?—A. "Guard No. 2."

Q. That is the regular call, is it?—A. Yes, sir.

Q. What does that mean? When a man on post calls "Guard No. 2," what does that mean?—A. Well, sir, the corporal of the relief at the guardhouse is supposed to come to the sentinel's rescue.

Q. So it was your duty to call out and the duty of the corporal at the guardhouse to come to your rescue?—A. Yes, sir.

Q. Then what further did you do?—A. I think at that time the shooting was still going on, and I came around on the front side of the barracks.

Q. How did you get on the front side of the barracks?—A. Came right through the interval between the barracks.

Q. How far were you up in the interval?—A. I was right out on the parade ground, right in front of the barracks on the parade ground side.

Q. What did you do when you got there?—A. Discharged my piece and called the guard three times.

Q. You discharged your piece and called the guard and what?—A. Three times.

Q. Do you mean that you discharged your gun three times and called the guard three times?—A. I discharged my piece and called the guard three times.

Q. How often did you discharge your piece?—A. Three times.

Q. In what direction did you discharge your piece?—A. My piece was elevated over toward the river—to the officers' barracks.

Q. The river is over here behind the barracks?—A. Yes, sir.

Q. You shot up in the air, however?—A. Yes, sir.

Q. What was that gun loaded with?—A. Ball ammunition.

Q. D Company was supplied with ball ammunition, was it, at that time?—A. Yes, sir.

Q. Well, then, what happened after that? About where were you with reference to the opening between B and C Companies' barracks when you discharged your piece? You spoke about coming around. How far were you?—A. I was right along in here, sir [indicating].

Q. Just about opposite the front line?—A. Yes, sir.

Senator SCOTT. He located it between B and C.

Senator FORAKER. He located it between B and C, about the middle between B and C, and at a point that would be touched by a line drawn along the front end of the barracks.

Senator SCOTT. He was on the front and not the rear. That is what I want to get at.

By Senator FORAKER:

Q. Then what did you do after that?—A. I waited there for the corporal to come with the relief. About that time Major Penrose he came across the parade ground, and he asked me what was the matter, and I told him there was some shooting outside in the road, seemed to be over in the town, and he went on down the line and he called for the men to fall out. By that time the companies was all falling out on the parade ground in front of the barracks, and I waited a few minutes for the relief, and the relief did not come, so I continued to walk my post.

By the CHAIRMAN:

Q. This was Major Penrose who came down the line, was it?—A. Yes, sir.

Senator WARNER. Across the parade ground.

By Senator FORAKER:

Q. Was he the first officer you saw?—A. Yes, sir; he was the first person I saw after I gave the alarm.

Q. Then after a short time you resumed your post, as I understand it?—A. Yes, sir.

Q. Back in the rear. Was the firing still going on?—A. Yes, sir.

Q. How long did that firing continue?—A. Oh, I guess it was about five or six minutes from the first shots until I heard the last.

Q. Did it get closer to the reservation, or did it recede and go farther away?—A. It seemed to be going farther away down in the town.

Q. Were you in a situation to see if anybody had been firing a gun from the back porches of any of these barracks, B or C or D—could you have seen them?—A. I could tell whether any shooting was going on from the quarters by the reports of the guns.

Q. Was there any shooting going on from the quarters?—A. No, sir.

Q. Were there any men up and about the quarters at all before the firing commenced?—A. No, sir; not after 11 o'clock.

Q. What happened at 11 o'clock?—A. At 11 o'clock taps went, and all the men were supposed to be in bed.

Q. There was a check roll call at that time, was there not?—A. Yes, sir.

Q. Were the lights put out at that time?—A. Yes, sir.

Q. And were the quarters dark and silent until this firing commenced, or not?—A. Yes, sir.

Q. Did you see any men jump over the back wall out of the barracks grounds?—A. No, sir.

Q. Were you in a situation where if there had been fifteen or twenty men running along the wall from the gate up to a point opposite that alley you could have seen them? Could you have seen them if there had been any such numbers of men running along there?—A. Yes, sir; I could have seen them.

Q. The scavenger would have seen them too, wouldn't he?—A. Yes, sir.

Q. They would have been compelled to pass right by him, wouldn't they?—A. Yes, sir.

Q. How long did you continue, then, to walk your post?—A. I was on post until about 1 o'clock.

Q. What time did you go on?—A. At half past 10.

Q. Then you were on longer than two hours?—A. Yes, sir.

Q. How did you happen to remain on longer than two hours? thought the sentries were relieved every two hours?—A. I don't know. The corporal had a patrol out, I think, was the cause of it not coming off on time.

Q. At any rate it was your duty to stay until relieved?—A. Yes, sir.

Q. And you were not relieved until about 1 o'clock?—A. Somewhere about that time.

Q. What did you do when you were relieved?—A. I went back to the guardhouse.

Q. What did you do when you went back to the guardhouse?—A. I sat up and talked to the men about the guardhouse about an hour and then went to sleep.

Q. You went to sleep? Then what happened next? First of all, whom did you find, as nearly as you can tell us, at the house? Did you find there any of the noncommissioned of the guard?—A. The sergeant of the guard was at the guardhouse.

Q. That was Sergeant Reid?—A. Yes, sir.

Q. Who else?—A. There was a lot of privates. I guess guard were there at the guardhouse except the men on post.

Q. Did you miss any of them at the guardhouse?—A. No.

Q. You went to bed and went to sleep?—A. Yes, sir.

Q. What happened next?—A. I was awakened up to again next morning.

Q. What time did you go on post again?—A. At half

past 4 in the morning?—A. Yes, sir.

Q. Then?—A. The same

Q. You continued, then, to walk around the barracks?—A. Yes, sir.

Q. State whether or not there were any other guards still on duty at that time.—A. Yes, sir; there were guards along the wall.

Q. Do you know who they were?—A. C Company; along the wall.

Q. C Company were along the wall?—A. Yes, sir.

Q. And they kept your post there all the same?—A. Yes, sir.

Q. Notwithstanding that?—A. Yes, sir.

Q. You went on duty at half past 4, you think?—A. Yes, sir.

Q. How long were you on duty then?—A. Until half past 6.

Q. State what occurred, if anything, that you can recall to tell us about while you were on post, before you went on duty at half past 6.—A. Immediately after reveille the officer of the day comes around, Captain Macklin.

Q. That is Captain Macklin?—A. Yes, sir. I saluted him, and he told me that he wanted to inspect my piece, and he inspected my piece and the ammunition; and when he first looked at my piece I told him that I had fired it that night on post, and he took it and looked at it. I was three rounds short of ammunition, and I told him that I had fired three rounds.

Q. You did not fire those rounds toward the town?—A. No, sir.

Q. But toward the officers' quarters, as I understand you?—A. Yes, sir.

Q. What further happened? What did he do after that?—A. He inspected my gun and gave it back to me and went on.

Q. You explained to him how it happened to show evidences of having been fired?—A. Yes, sir.

Q. Then what occurred next, if you know?—A. I was relieved off of post shortly afterwards, and shortly afterwards I went to breakfast, and then went back to the guardhouse, and at guard mount all of the guards had to go around to the administration building and report to the commanding officer, and he held an investigation.

Q. Who was that—Major Penrose?—A. Yes, sir.

Q. At the administration building. That is down here [indicating on map]?—A. By the river.

Q. Near the river?—A. Yes, sir.

Q. What kind of an investigation was that which he held?—A. He asked the different men what occurred about this shooting.

Q. Did he have you all together, or summon you separate?—A. Separate.

Q. Separately?—A. Yes, sir.

Q. Where was this examination conducted, in the house or outside of it?—A. It was in his room.

Q. In the administration building?—A. Yes, sir.

Q. Was each man called in?—A. Each man was called in separate.

Q. What did he ask you about?—A. He asked different questions about the shooting—did any of us men know who did the shooting, and such as that.

Senator FORAKER. I do not care to go into that. I believe that is all.

Senator SCOTT. You have not asked him anything about whether he knows who did it.

Senator FORAKER. Yes. I will ask him that.

By Senator FORAKER:

Q. Do you know who did this shooting?—A. No, sir.

Q. Did you have anything to do with it?—A. No, sir.

Q. Excepting what you have told us?—A. No, sir.

Q. Have you any knowledge that you have refused to give to any of your officers in regard to it?—A. No, sir.

Q. Have you any knowledge now that you are withholding from us?—A. No, sir.

Q. Have you any knowledge that leads you to suspect that any body in your company or in either of the other companies was implicated in this shooting?—A. No, sir; I have not.

Senator FORAKER. That is all that I think of at the present time.

By Senator WARNER:

Q. To go back a moment. When you heard this first shot, was it then that you went around the barracks, in front of the barracks?—A. No, sir.

Q. When was it?—A. I stood there after I heard the fusillade of shots, when I went around on the front side.

Q. What do you mean by a fusillade of shots?—A. It sounded like there was about 12 or 15 men, something like that, firing right after one another.

Q. And that firing was about the mouth of the alley, you think, or up in the alley?—A. It was up in the alley, I think.

Q. Between Washington and Elizabeth streets?—A. Yes, sir.

Q. Do you see that red figure "2" on the map, there?—A. Yes, sir.

Q. That is supposed to be the Cowen house. It was up in that direction, was it?—A. Yes, sir.

Q. Also you see the red figure "9," there?—A. Yes, sir.

Q. The Martinez cottage; that is at the mouth of the alley. You knew where it was, did you not?—A. The figure "9?"

Q. Where the figure "9" is?—A. Is that the mouth of the street [indicating on map]?

Q. Yes.—A. I thought the mouth of the alley was—

Q. Pardon me; I may be mistaken when I say the figure "9" is at the mouth of the alley.—A. Yes, sir; this marks the mouth of the alley (indicating).

Q. But the building I speak of is here [indicating]?—A. Yes.

Q. You did not give the alarm then?—A. I called the guard on that side.

Q. When you were over on that side?—A. When I was rear of quarters I called the guard. I gave the alarm twice rear of the quarters and in front.

Q. What else, if anything, did you hear when you were told from this fusillade and the shooting?—A. The noise from the engineer's cart when he drove off.

Q. Anything else?—A. No, sir.

Q. Any voices?—A. No, sir.

Q. No voice whatever?—A. No, sir.

Q. You did not hear any voice?—A. No, sir.

By Senator OVERMAN:

Whoever say: "Come out here."

Senator WARNER. I was about to ask that.

Senator OVERMAN. You ask him that question.

By Senator WARNER:

Q. Did you hear anybody there say, "Come out, you black sons of bitches," or did you hear anything to that effect?—A. They all seemed to be quiet. I didn't hear any noise.

Q. You heard no such expression?—A. No, sir.

Q. Nothing of the kind? Then the first one that you saw there was Major Penrose?—A. After I came around over on the front side.

Q. Well, he was the first one you saw, except you heard the scavenger's cart?—A. Yes, sir.

Q. Major Penrose was the first one?—A. Yes, sir.

Q. When you went around there was no soldier down?—A. No, sir.

Q. And Major Penrose's quarters were across the parade ground?—A. Yes, sir.

Q. You see the quarters marked there on the map, Mr. Howard?—

A. Yes, sir; Major Penrose's quarters were the end quarters.

Q. I think they were 11 and 12, down nearest the river?—A. No, sir; up at the other end.

Q. Up nearest the other end. And what is the distance from Major Penrose's quarters going across to the barracks?—A. About 90 yards, I guess. I don't know exactly. I would take it to be about 90 yards.

Q. What, if anything, did you report to Major Penrose?—A. He asked me what was the matter; he says, "What is the matter, sentry," and I told him there was some shooting out in the road, in the town, across the wall.

Q. What else?—A. That is all. He went on by, away from me, and up the line, calling the men out—calling the companies out. He called out for the trumpeter to sound the call to arms at the guard-house.

Q. And how long after that was it, if at all, that the trumpeter gave the call to arms?—A. The trumpeter at the guardhouse was giving the call to arms when he came across, and the trumpeters at the quarters taken it up, and they blew call to arms also.

Q. Did you remain there then in front of the quarters while call to arms was going?—A. Yes, sir.

Q. And you remained there until the companies formed?—A. No, sir.

Q. Where did you go?—A. I went on around, walking my post.

Q. In rear of the quarters?—A. Yes, sir.

Q. You continued to walk your post?—A. Yes, sir.

Q. Did you see the scavenger?—A. No, sir.

Q. You could not see the scavenger?—A. No, sir.

Q. You could not see him? Was he on the same side of the wall you were—on the inside?—A. Yes, sir; he was over inside the wall.

Q. It was so dark you could not see him?—A. I could see his cart, and I knew there was a man on the cart; I could tell that much. I didn't know the scavenger personally, though. I taken it to be him.

Q. You did not speak to him at all?—A. No, sir.

AFFRAY AT BROWNSVILLE, TEXAS.

Q. When did you clean your gun?—A. The morning I went on guard; the next morning after the shooting.

Q. What time?—A. About 9 o'clock in the morning, I guess; the morning D Company went on guard after the shooting.

Q. It had not been cleaned or inspected in the meantime?—A. No; it had not been cleaned until the morning I went on guard with the company.

Q. Do you know of any other guns there—

Senator FORAKER. Excuse me, but you asked him if it had been inspected.

By Senator WARNER:

Q. Yes. It had not been inspected from the time Captain Macklin inspected you on post until you went on guard the next morning again?—A. No, sir. When I went off guard the gun was put in the rack, and it was left in the rack until the next morning when D Company went on guard, and it was returned to me.

Q. It had not been inspected in that time?—A. No, sir.

Senator FORAKER. It had not been earlier inspected?

Senator WARNER. Earlier inspected, of course.

Senator FORAKER. You mean that it had not been inspected from that time on?

The WITNESS. No, sir; it had not been inspected from that time on.

By Senator WARNER:

Q. What time did you come off guard; can you state?—A. I came off guard about half past 10 o'clock the morning of the 14th.

Senator FORAKER. The morning of the 14th.

Q. You first went on guard the night of the 13th at half past 10?—A. I went on post that night at half past 10.

Q. And then you came off duty at that post about half past after the shooting?—A. No, sir.

Q. What time was it?—A. It was after 1.

Q. After 1 o'clock?—A. Yes, sir.

Q. And then you went on guard again—I think you said it about 4 o'clock?—A. Yes, sir; I went on post. I was already on guard. I went on post.

Q. You went on post?—A. Yes, sir; at half past 4 o'clock.

Q. And you were on post when Captain Macklin came around and saw your gun?—A. Yes, sir.

Q. All the explanation required of you was to say that you fired the gun on post in giving the alarm?—A. All the explanation required?

Q. Yes; was that all the explanation made of the condition of your gun?—A. I told him that the gun had been fired that night on post, and he inspected it and found it dirty, and he inspected the ammunition and I was three rounds short.

Q. That was ball ammunition?—A. Yes, sir.

Q. That was what you call the ball cartridge?—A. Yes.

Q. Was there any light at the street in front of the bar?—A. There was a light at the gate.

Q. At the gate?—A. Yes, sir; there is a lamp burns at the gate always.

Q. Did that give any light up to where you were?—A.

Q. There was no lantern there at the corner of the alley. Did you see the forms of any men there?—A. No, sir. I don't know whether there is any light there or not; I don't remember.

Q. Did you see the forms of any men?—A. No, sir; I could not see any men.

Q. And it seemed to be how many, did you say?—A. I don't know; from the sound of the shots it seemed to be about fifteen or twenty.

Q. Could you tell where the first shot was fired from?—A. No, sir; only it was over in the road, down a little piece from the alley.

Q. When you say down a little piece from the alley, do you mean toward the gate or away from the gate?—A. No, sir; away from the gate.

Q. Did you see that party?—A. No, sir.

Q. In what direction was it you fired your piece?—A. Toward the officers' quarters.

Q. You did not fire it in the direction of the hospital? You see the hospital there, do you not?—A. Yes, sir.

Q. Did you fire it in that direction?—A. No, sir.

Q. Did the corporal of your relief come to you?—A. No, sir.

Q. What else did you hear Major Penrose say there than what you have spoken of, when he spoke to you and asked you what the matter was?—A. He was giving different commands.

Q. What commands did you hear him give?—A. "Fall out, you men, and get your arms" and "Fall in" and "Blow the call to arms." He was going from one side of the barracks to the other over on the front side.

Q. When Major Penrose came over how many shots had been fired? Was that after this fusillade you have spoken of?—A. The fusillade was still going on when Major Penrose came across.

Q. And how long had it been going on? About how many minutes?—A. About two minutes.

Q. When you were walking your post and in rear of the barracks, your beat was about 50 feet from the wall?—A. It was right up aside of the barracks. I don't know the exact distance away from the wall.

Q. Do you know whether the parties got over that wall or not?—A. I didn't see anyone get over the wall.

Q. They could have gotten over without your seeing them?—A. No, sir; I don't think so.

Q. Well, you could not see the scavenger?—A. I could see him working over there at the closet.

Q. You could see the scavenger working?—A. Yes, sir.

Q. So that you knew it was the scavenger?—A. I knew it was a man. I don't know whether it was the scavenger or not. I have never seen him to know him. I knew it was a man working.

Q. And how near is that to the gate?—A. The scavenger?

Q. This is the gate coming from Elizabeth street into the fort—the main gates?—A. I can show you on the map exactly about where he was.

Q. Do so, please.—A. It was right along in here somewheres. B Company is about along in here.

By Senator WARNER:

Q. Just as you were facing the mouth of the alley, it was a little to the left of the mouth of the alley and up from the end of Barracks B to the end of Barracks C?—A. Yes, sir.

Q. Where were you at the time?—A. I was there between B and C Companies' barracks, in rear of the quarters.

Q. So that there was no light near where the scavenger was; no lamp?—A. I don't think there was, except the lamp there on the gate.

Q. The lamp at the gate was near where you were?—A. No, sir; it was on the other side of the scavenger, between B and C Companies' quarters.

Senator FORAKER. What was the answer?

The WITNESS. The lamp at the gate was over on the other side of the scavenger.

By Senator WARNER:

Q. When this shooting started, as you said, the first shot seemed to be in the road?—A. Yes, sir.

Q. And then continued, as long as it lasted, to recede from the barracks?—A. Yes, sir; it seemed like it was farther on down in the town.

Q. Did it occur to you what that shooting was at the time?—A. No, sir; I didn't know. I thought some one was firing at me.

Q. Firing at you?—A. Yes, sir; because the fusillade seemed to be right over to the right of me, up in the alley; I could not see anyone.

Q. But would it not be singular, if they were firing at you, that the fusillade or shooting would be receding down the alley?—A. Wouldn't it be singular?

Q. Would it not be singular, if they were firing at you, that the parties doing the firing would be retreating and going away from you down the alley into the town?—A. I thought at first they were firing at me, but I couldn't hear the bullets hitting around me, and I knew then that the firing wasn't over the way where I was at.

Q. And you knew then that the firing was not at the fort?—A. Yes, sir.

Q. You heard the whistling of no bullets?—A. No, sir.

Q. So that you knew then that the firing was away from the fort. Did it occur to you then what the firing was? You did not think then that they were firing at you?—A. Yes, sir.

Q. What did you think then?—A. I didn't know; only I knew some one was firing in the town.

Q. Had you known of any difficulty between any of the soldiers?—A. I had heard of some soldiers having some trouble in the town.

Q. You knew the difficulty there with reference to a lady on the Sunday evening? Did you not hear of it?—A. I didn't hear about that until after the shooting.

Q. After the shooting?—A. Yes, sir.

Q. You knew that the men were all ordered into camp on the night of the 13th at 8 o'clock?—A. Yes, sir.

Q. That was unusual?—A. Yes, sir.

Q. You knew why that was, did you not?—A. No, sir; I didn't know what was the reason why the men were ordered in.

Q. You did not know it was to prevent trouble between the soldiers and citizens there?—A. No, sir.

Senator PETTUS. About how many shots did you hear fired that night?

A. I guess there was over 50 shots; over 50. I don't know how many over. It was that at least, I think.

By Senator FOSTER:

Q. I would like to have you locate yourself, as near as you can, at the time that you heard the first two shots down in this alley. Just locate yourself on this map.—A. Right along in there, sir.

Q. In front of the barracks?—A. No, sir; in rear of the barracks.

Senator FORAKER. Opposite the center of the space between B and C.

By Senator FOSTER:

Q. Between B and C. How many yards did your beat cover?—A. All the way around the barracks, clear around in front.

Q. About how many yards would you say; just about, as near as you can approximate?—A. All the way around?

Q. All the way around, including your whole beat.—A. I couldn't say, sir. I guess it was something over 500 yards all the way around.

Q. You were the only sentry or guard on that beat at the time of this shooting, were you?—A. Yes, sir.

Q. About how far from where you were standing would you judge that the parties were who fired the first two shots that you heard?

Senator FORAKER. Do you object to his indicating on the map there?

Senator FOSTER. Not at all, sir.

The CHAIRMAN. Just take that rod beside you and stand alongside the map and point out on the map.

By Senator FOSTER:

Q. About how far were the parties who fired the first shots from you?—A. The first shots seemed to be about up in this direction [indicating].

Q. I thought you said the first shots were down in this alley?—A. No, sir; the first shots were along in this road.

Q. About how far from you?—A. About where I am pointing.

Senator WARNER. That is up about Washington street.

Senator FORAKER. You can approximate the distance, can you not?

The CHAIRMAN. The map is drawn to a scale of 30 feet to the inch, and the witness can figure on that basis.

By Senator FOSTER:

Q. Then you heard the next shots coming from what direction?—A. Up in this alley.

Q. About what distance from you, from where you were standing?—A. Here was where I was standing [indicating].

Q. Yes; about how far would you say that was? You need not be accurate, but just approximate the distance.—A. Something over 75 feet.

Q. Something over 75 feet?—A. Yes, sir.

Q. Now, after you heard this fusillade what did you do?—A. I went on walking guard on post No. 2. About that time the scavenger drove off on his cart away from B Company's rear, and I looked in that direction to see if I could see anyone, and I couldn't see anyone.

Q. How do you know he was there?—A. Because as the firing began he got on his cart and drove off.

Q. Had you seen him before the firing commenced?—A. No, sir.

Q. When the firing commenced what attracted your attention to him?—A. By his wagon rolling off. I heard the noise of his horse and wagon.

Q. Did it make a noise?—A. Yes, sir.

Q. You saw him go away and knew who he was and what it was?—A. I knew it was the scavenger's cart.

Q. Did he come in there or not every night at about that time to do that kind of work?—A. Yes, sir.

Q. Now, you heard two shots. What occurred next?—A. Well, I stopped and looked in that direction—the way I heard the two shots—and then, about thirty seconds after that, I heard a fusillade of shots.

Q. A fusillade of shots?—A. Yes, sir.

Q. Where was the fusillade of shots, as nearly as you can locate it?—A. They were right over to the right of me, across the wall.

Q. That is right behind what barracks?—A. Well, they were to the right of me. I was in the interval between B and C Companies' barracks, and the shooting seemed to be over in that little alley.

Q. There is an alley there, is there?—A. Yes, sir.

Q. And this fusillade seemed to be over about the mouth of that alley?—A. Up in the alley.

Q. Up in the alley?—A. Yes, sir.

Senator FOSTER. What alley does he refer to?

Senator FORAKER. There is an alley between Washington street and Elizabeth street, immediately to his right, where he was posted, in the interval between C barracks and B barracks.

Q. When you heard the fusillade what did you do?—A. I yelled the alarm.

Q. Did you do that in accordance with instructions or not? Was that your duty under such circumstances?—A. Yes, sir.

Q. What alarm did you yell—what did you do?—A. "Guard No. 2."

Q. That is the regular call, is it?—A. Yes, sir.

Q. What does that mean? When a man on post calls "Guard No. 2," what does that mean?—A. Well, sir, the corporal of the relief at the guardhouse is supposed to come to the sentinel's rescue.

Q. So it was your duty to call out and the duty of the corporal at the guardhouse to come to your rescue?—A. Yes, sir.

Q. Then what further did you do?—A. I think at that time the shooting was still going on, and I came around on the front side of the barracks.

Q. How did you get on the front side of the barracks?—A. Came right through the interval between the barracks.

Q. How far were you up in the interval?—A. I was right out the parade ground, right in front of the barracks on the parade ground side.

Q. What did you do when you got there?—A. Discharge piece and called the guard three times.

Q. You discharged your piece and called the guard and what?—A. Three times.

Q. Do you mean that you discharged your gun three times and called the guard three times?—A. I discharged my piece and called the guard three times.

Q. How often did you discharge your piece?—A. Three times.

Q. In what direction did you discharge your piece?—A. My piece was elevated over toward the river—to the officers' barracks.

Q. The river is over here behind the barracks?—A. Yes, sir.

Q. You shot up in the air, however?—A. Yes, sir.

Q. What was that gun loaded with?—A. Ball ammunition.

Q. D Company was supplied with ball ammunition, was it, at that time?—A. Yes, sir.

Q. Well, then, what happened after that? About where were you with reference to the opening between B and C Companies' barracks when you discharged your piece? You spoke about coming around. How far were you?—A. I was right along in here, sir [indicating].

Q. Just about opposite the front line?—A. Yes, sir.

Senator SCOTT. He located it between B and C.

Senator FORAKER. He located it between B and C, about the middle between B and C, and at a point that would be touched by a line drawn along the front end of the barracks.

Senator SCOTT. He was on the front and not the rear. That is what I want to get at.

By Senator FORAKER:

Q. Then what did you do after that?—A. I waited there for the corporal to come with the relief. About that time Major Penrose he came across the parade ground, and he asked me what was the matter, and I told him there was some shooting outside in the road, seemed to be over in the town, and he went on down the line and he called for the men to fall out. By that time the companies was all falling out on the parade ground in front of the barracks, and I waited a few minutes for the relief, and the relief did not come, so I continued to walk my post.

By the CHAIRMAN:

Q. This was Major Penrose who came down the line, was it?—A. Yes, sir.

Senator WARNER. Across the parade ground.

By Senator FORAKER:

Q. Was he the first officer you saw?—A. Yes, sir; he was the first person I saw after I gave the alarm.

Q. Then after a short time you resumed your post, as I understand it?—A. Yes, sir.

Q. Back in the rear. Was the firing still going on?—A. Yes, sir.

Q. How long did that firing continue?—A. Oh, I guess it was about five or six minutes from the first shots until I heard the last.

Q. Did it get closer to the reservation, or did it recede and go farther away?—A. It seemed to be going farther away down in the town.

Q. Were you in a situation to see if anybody had been firing a gun from the back porches of any of these barracks, B or C or D—could you have seen them?—A. I could tell whether any shooting was going on from the quarters by the reports of the guns.

Q. Was there any shooting going on from the quarters?—A. No, sir.

Q. Were there any men up and about the quarters at all before the firing commenced?—A. No, sir; not after 11 o'clock.

Q. What happened at 11 o'clock?—A. At 11 o'clock taps went, and all the men were supposed to be in bed.

Q. There was a check roll call at that time, was there not?—A. Yes, sir.

Q. Were the lights put out at that time?—A. Yes, sir.

Q. And were the quarters dark and silent until this firing commenced, or not?—A. Yes, sir.

Q. Did you see any men jump over the back wall out of the barracks grounds?—A. No, sir.

Q. Were you in a situation where if there had been fifteen or twenty men running along the wall from the gate up to a point opposite that alley you could have seen them? Could you have seen them if there had been any such numbers of men running along there?—A. Yes, sir; I could have seen them.

Q. The scavenger would have seen them too, wouldn't he?—A. Yes, sir.

Q. They would have been compelled to pass right by him, wouldn't they?—A. Yes, sir.

Q. How long did you continue, then, to walk your post?—A. I was on post until about 1 o'clock.

Q. What time did you go on?—A. At half past 10.

Q. Then you were on longer than two hours?—A. Yes, sir.

Q. How did you happen to remain on longer than two hours? I thought the sentries were relieved every two hours?—A. I don't know. The corporal had a patrol out, I think, was the cause of my not coming off on time.

Q. At any rate it was your duty to stay until relieved?—A. Yes, sir.

Q. And you were not relieved until about 1 o'clock?—A. Somewhere about that time.

Q. What did you do when you were relieved?—A. I went back to the guardhouse.

Q. What did you do when you went back to the guardhouse?—A. I sat up and talked to the men about the guardhouse about half an hour and then went to sleep.

Q. You went to sleep? Then what happened next? First, however, whom did you find, as nearly as you can tell us, at the guardhouse? Did you find there any of the noncommissioned officers?—A. The sergeant of the guard was at the guardhouse.

Q. That was Sergeant Reid?—A. Yes, sir.

Q. Who else?—A. There was a lot of privates. I guess all the guard were there at the guardhouse except the men on post.

Q. Did you miss any of them at the guardhouse?—A. No, sir.

Q. You went to bed and went to sleep?—A. Yes, sir.

Q. What happened next?—A. I was wakened up to go on post again next morning.

Q. What time did you go on post again?—A. At half past 4.

Q. At half past 4 in the morning?—A. Yes, sir.

Q. What post did you go on then?—A. The same post—No. 2.

Q. You continued, then, to walk around the barracks?—A. Yes, sir.

Q. State whether or not there were any other guards still on duty at that time.—A. Yes, sir; there were guards along the wall.

Q. Do you know who they were?—A. C Company; along the wall.

Q. C Company were along the wall?—A. Yes, sir.

Q. And they kept your post there all the same?—A. Yes, sir.

Q. Notwithstanding that?—A. Yes, sir.

Q. You went on duty at half past 4, you think?—A. Yes, sir.

Q. How long were you on duty then?—A. Until half past 6.

Q. State what occurred, if anything, that you can recall to tell us about while you were on post, before you went on duty at half past 6.—A. Immediately after reveille the officer of the day comes around, Captain Macklin.

Q. That is Captain Macklin?—A. Yes, sir. I saluted him, and he told me that he wanted to inspect my piece, and he inspected my piece and the ammunition; and when he first looked at my piece I told him that I had fired it that night on post, and he took it and looked at it. I was three rounds short of ammunition, and I told him that I had fired three rounds.

Q. You did not fire those rounds toward the town?—A. No, sir.

Q. But toward the officers' quarters, as I understand you?—A. Yes, sir.

Q. What further happened? What did he do after that?—A. He inspected my gun and gave it back to me and went on.

Q. You explained to him how it happened to show evidences of having been fired?—A. Yes, sir.

Q. Then what occurred next, if you know?—A. I was relieved off of post shortly afterwards, and shortly afterwards I went to breakfast, and then went back to the guardhouse, and at guard mount all of the guards had to go around to the administration building and report to the commanding officer, and he held an investigation.

Q. Who was that—Major Penrose?—A. Yes, sir.

Q. At the administration building. That is down here [indicating on map]?—A. By the river.

Q. Near the river?—A. Yes, sir.

Q. What kind of an investigation was that which he held?—A. He asked the different men what occurred about this shooting.

Q. Did he have you all together, or summon you separate?—A. Separate.

Q. Separately?—A. Yes, sir.

Q. Where was this examination conducted, in the house or outside of it?—A. It was in his room.

Q. In the administration building?—A. Yes, sir.

Q. Was each man called in?—A. Each man was called in separate.

Q. What did he ask you about?—A. He asked different questions about the shooting—did any of us men know who did the shooting, and such as that.

Senator FORAKER. I do not care to go into that. I believe that is all.

Senator SCOTT. You have not asked him anything about whether he knows who did it.

Senator FORAKER. Yes. I will ask him that.

By Senator FORAKER:

Q. Do you know who did this shooting?—A. No, sir.

Q. Did you have anything to do with it?—A. No, sir.

Q. Excepting what you have told us?—A. No, sir.

Q. Have you any knowledge that you have refused to give to any of your officers in regard to it?—A. No, sir.

Q. Have you any knowledge now that you are withholding from us?—A. No, sir.

Q. Have you any knowledge that leads you to suspect that anybody in your company or in either of the other companies was implicated in this shooting?—A. No, sir; I have not.

Senator FORAKER. That is all that I think of at the present time.

By Senator WARNER:

Q. To go back a moment. When you heard this first shot, was it then that you went around the barracks, in front of the barracks?—A. No, sir.

Q. When was it?—A. I stood there after I heard the fusillade of shots, when I went around on the front side.

Q. What do you mean by a fusillade of shots?—A. It sounded like there was about 12 or 15 men, something like that, firing right after one another.

Q. And that firing was about the mouth of the alley, you think, or up in the alley?—A. It was up in the alley, I think.

Q. Between Washington and Elizabeth streets?—A. Yes, sir.

Q. Do you see that red figure "2" on the map, there?—A. Yes, sir.

Q. That is supposed to be the Cowen house. It was up in that direction, was it?—A. Yes, sir.

Q. Also you see the red figure "9," there?—A. Yes, sir.

Q. The Martinez cottage; that is at the mouth of the alley. You knew where it was, did you not?—A. The figure "9?"

Q. Where the figure "9" is?—A. Is that the mouth of the alley [indicating on map]?

Q. Yes.—A. I thought the mouth of the alley was—

Q. Pardon me; I may be mistaken when I say the figure "9" marks the mouth of the alley.—A. Yes, sir; this marks the mouth of the alley (indicating).

Q. But the building I speak of is here [indicating]?—A. Yes, sir.

Q. You did not give the alarm then?—A. I called the guard over on that side.

Q. When you were over on that side?—A. When I was over in rear of quarters I called the guard. I gave the alarm twice, over in rear of the quarters and in front.

Q. What else, if anything, did you hear when you were there, aside from this fusillade and the shooting?—A. The noise from the scavenger's cart when he drove off.

Q. Anything else?—A. No, sir.

Q. Any voices?—A. No, sir.

Q. No voice whatever?—A. No, sir.

Q. You did not hear any voice?—A. No, sir.

By Senator OVERMAN:

Q. Did you hear anybody say: "Come out here, you sons of bitches?"

Senator WARNER. I was about to ask that.

Senator OVERMAN. You ask him that question.

By Senator WARNER:

Q. Did you hear anybody there say, "Come out, you black sons of bitches," or did you hear anything to that effect?—A. They all seemed to be quiet. I didn't hear any noise.

Q. You heard no such expression?—A. No, sir.

Q. Nothing of the kind? Then the first one that you saw there was Major Penrose?—A. After I came around over on the front side.

Q. Well, he was the first one you saw, except you heard the scavenger's cart?—A. Yes, sir.

Q. Major Penrose was the first one?—A. Yes, sir.

Q. When you went around there was no soldier down?—A. No, sir.

Q. And Major Penrose's quarters were across the parade ground?—A. Yes, sir.

Q. You see the quarters marked there on the map, Mr. Howard?—

A. Yes, sir; Major Penrose's quarters were the end quarters.

Q. I think they were 11 and 12, down nearest the river?—A. No, sir; up at the other end.

Q. Up nearest the other end. And what is the distance from Major Penrose's quarters going across to the barracks?—A. About 90 yards, I guess. I don't know exactly. I would take it to be about 90 yards.

Q. What, if anything, did you report to Major Penrose?—A. He asked me what was the matter; he says, "What is the matter, sentry," and I told him there was some shooting out in the road, in the town, across the wall.

Q. What else?—A. That is all. He went on by, away from me, and up the line, calling the men out—calling the companies out. He called out for the trumpeter to sound the call to arms at the guardhouse.

Q. And how long after that was it, if at all, that the trumpeter gave the call to arms?—A. The trumpeter at the guardhouse was giving the call to arms when he came across, and the trumpeters at the quarters taken it up, and they blew call to arms also.

Q. Did you remain there then in front of the quarters while call to arms was going?—A. Yes, sir.

Q. And you remained there until the companies formed?—A. No, sir.

Q. Where did you go?—A. I went on around, walking my post.

Q. In rear of the quarters?—A. Yes, sir.

Q. You continued to walk your post?—A. Yes, sir.

Q. Did you see the scavenger?—A. No, sir.

Q. You could not see the scavenger?—A. No, sir.

Q. You could not see him? Was he on the same side of the wall you were—on the inside?—A. Yes, sir; he was over inside the wall.

Q. It was so dark you could not see him?—A. I could see his cart, and I knew there was a man on the cart; I could tell that much. I didn't know the scavenger personally, though. I taken it to be him.

Q. You did not speak to him at all?—A. No, sir.

By Senator FORAKER:

Q. Do you know who did this shooting?—A. No, sir.

Q. Did you have anything to do with it?—A. No, sir.

Q. Excepting what you have told us?—A. No, sir.

Q. Have you any knowledge that you have refused to give to any of your officers in regard to it?—A. No, sir.

Q. Have you any knowledge now that you are withholding from us?—A. No, sir.

Q. Have you any knowledge that leads you to suspect that anybody in your company or in either of the other companies was implicated in this shooting?—A. No, sir; I have not.

Senator FORAKER. That is all that I think of at the present time.

By Senator WARNER:

Q. To go back a moment. When you heard this first shot, was it then that you went around the barracks, in front of the barracks?—A. No, sir.

Q. When was it?—A. I stood there after I heard the fusillade of shots, when I went around on the front side.

Q. What do you mean by a fusillade of shots?—A. It sounded like there was about 12 or 15 men, something like that, firing right after one another.

Q. And that firing was about the mouth of the alley, you think, or up in the alley?—A. It was up in the alley, I think.

Q. Between Washington and Elizabeth streets?—A. Yes, sir.

Q. Do you see that red figure "2" on the map, there?—A. Yes, sir.

Q. That is supposed to be the Cowen house. It was up in that direction, was it?—A. Yes, sir.

Q. Also you see the red figure "9," there?—A. Yes, sir.

Q. The Martinez cottage; that is at the mouth of the alley. You knew where it was, did you not?—A. The figure "9?"

Q. Where the figure "9" is?—A. Is that the mouth of the alley [indicating on map]?

Q. Yes.—A. I thought the mouth of the alley was——

Q. Pardon me; I may be mistaken when I say the figure "9" marks the mouth of the alley.—A. Yes, sir; this marks the mouth of the alley (indicating).

Q. But the building I speak of is here [indicating]?—A. Yes, sir.

Q. You did not give the alarm then?—A. I called the guard over on that side.

Q. When you were over on that side?—A. When I was over in rear of quarters I called the guard. I gave the alarm twice, over in rear of the quarters and in front.

Q. What else, if anything, did you hear when you were there, aside from this fusillade and the shooting?—A. The noise from the scavenger's cart when he drove off.

Q. Anything else?—A. No, sir.

Q. Any voices?—A. No, sir.

Q. No voice whatever?—A. No, sir.

Q. You did not hear any voice?—A. No, sir.

By Senator OVERMAN:

Q. Did you hear anybody say: "Come out here, you sons of bitches?"

Senator WARNER. I was about to ask that.

Senator OVERMAN. You ask him that question.

By Senator WARNER:

Q. Did you hear anybody there say, "Come out, you black sons of bitches," or did you hear anything to that effect?—A. They all seemed to be quiet. I didn't hear any noise.

Q. You heard no such expression?—A. No, sir.

Q. Nothing of the kind? Then the first one that you saw there was Major Penrose?—A. After I came around over on the front side.

Q. Well, he was the first one you saw, except you heard the scavenger's cart?—A. Yes, sir.

Q. Major Penrose was the first one?—A. Yes, sir.

Q. When you went around there was no soldier down?—A. No, sir.

Q. And Major Penrose's quarters were across the parade ground?—A. Yes, sir.

Q. You see the quarters marked there on the map, Mr. Howard?—

A. Yes, sir; Major Penrose's quarters were the end quarters.

Q. I think they were 11 and 12, down nearest the river?—A. No, sir; up at the other end.

Q. Up nearest the other end. And what is the distance from Major Penrose's quarters going across to the barracks?—A. About 90 yards, I guess. I don't know exactly. I would take it to be about 90 yards.

Q. What, if anything, did you report to Major Penrose?—A. He asked me what was the matter; he says, "What is the matter, sentry," and I told him there was some shooting out in the road, in the town, across the wall.

Q. What else?—A. That is all. He went on by, away from me, and up the line, calling the men out—calling the companies out. He called out for the trumpeter to sound the call to arms at the guard-house.

Q. And how long after that was it, if at all, that the trumpeter gave the call to arms?—A. The trumpeter at the guardhouse was giving the call to arms when he came across, and the trumpeters at the quarters taken it up, and they blew call to arms also.

Q. Did you remain there then in front of the quarters while call to arms was going?—A. Yes, sir.

Q. And you remained there until the companies formed?—A. No, sir.

Q. Where did you go?—A. I went on around, walking my post.

Q. In rear of the quarters?—A. Yes, sir.

Q. You continued to walk your post?—A. Yes, sir.

Q. Did you see the scavenger?—A. No, sir.

Q. You could not see the scavenger?—A. No, sir.

Q. You could not see him? Was he on the same side of the wall you were—on the inside?—A. Yes, sir; he was over inside the wall.

Q. It was so dark you could not see him?—A. I could see his cart, and I knew there was a man on the cart; I could tell that much. I didn't know the scavenger personally, though. I taken it to be him.

Q. You did not speak to him at all?—A. No, sir.

Q. When did you clean your gun?—A. The morning I went on guard; the next morning after the shooting.

Q. What time?—A. About 9 o'clock in the morning, I guess; the morning D Company went on guard after the shooting.

Q. It had not been cleaned or inspected in the meantime?—A. No, sir; it had not been cleaned until the morning I went on guard with the company.

Q. Do you know of any other guns there—

Senator FORAKER. Excuse me, but you asked him if it had been inspected.

By Senator WARNER:

Q. Yes. It had not been inspected from the time Captain Macklin inspected you on post until you went on guard the next morning again?—A. No, sir. When I went off guard the gun was put in the rack, and it was left in the rack until the next morning when D Company went on guard, and it was returned to me.

Q. It had not been inspected in that time?—A. No, sir.

Senator FORAKER. It had not been earlier inspected?

Senator WARNER. Earlier inspected, of course.

Senator FORAKER. You mean that it had not been inspected from that time on?

The WITNESS. No, sir; it had not been inspected from that time on.

By Senator WARNER:

Q. What time did you come off guard; can you state?—A. I came off guard about half past 10 o'clock the morning of the 14th.

Senator FORAKER. The morning of the 14th.

Q. You first went on guard the night of the 13th at half past 10?—A. I went on post that night at half past 10.

Q. And then you came off duty at that post about half past 12, after the shooting?—A. No, sir.

Q. What time was it?—A. It was after 1.

Q. After 1 o'clock?—A. Yes, sir.

Q. And then you went on guard again—I think you said it was about 4 o'clock?—A. Yes, sir; I went on post. I was already on guard. I went on post.

Q. You went on post?—A. Yes, sir; at half past 4 o'clock.

Q. And you were on post when Captain Macklin came around and saw your gun?—A. Yes, sir.

Q. All the explanation required of you was to say that you had fired the gun on post in giving the alarm?—A. All the explanation required?

Q. Yes; was that all the explanation made of the condition of your gun?—A. I told him that the gun had been fired that night on post, and he inspected it and found it dirty, and he inspected the ammunition and I was three rounds short.

Q. That was ball ammunition?—A. Yes, sir.

Q. That was what you call the ball cartridge?—A. Yes, sir.

Q. Was there any light at the street in front of the barracks?—A. There was a light at the gate.

Q. At the gate?—A. Yes, sir; there is a lamp burns there at the gate always.

Q. Did that give any light up to where you were?—A. No, sir.

Q. There was no lantern there at the corner of the alley. Did you see the forms of any men there?—A. No, sir. I don't know whether there is any light there or not; I don't remember.

Q. Did you see the forms of any men?—A. No, sir; I could not see any men.

Q. And it seemed to be how many, did you say?—A. I don't know; from the sound of the shots it seemed to be about fifteen or twenty.

Q. Could you tell where the first shot was fired from?—A. No, sir; only it was over in the road, down a little piece from the alley.

Q. When you say down a little piece from the alley, do you mean toward the gate or away from the gate?—A. No, sir; away from the gate.

Q. Did you see that party?—A. No, sir.

Q. In what direction was it you fired your piece?—A. Toward the officers' quarters.

Q. You did not fire it in the direction of the hospital? You see the hospital there, do you not?—A. Yes, sir.

Q. Did you fire it in that direction?—A. No, sir.

Q. Did the corporal of your relief come to you?—A. No, sir.

Q. What else did you hear Major Penrose say there than what you have spoken of, when he spoke to you and asked you what the matter was?—A. He was giving different commands.

Q. What commands did you hear him give?—A. "Fall out, you men, and get your arms" and "Fall in" and "Blow the call to arms." He was going from one side of the barracks to the other over on the front side.

Q. When Major Penrose came over how many shots had been fired? Was that after this fusillade you have spoken of?—A. The fusillade was still going on when Major Penrose came across.

Q. And how long had it been going on? About how many minutes?—A. About two minutes.

Q. When you were walking your post and in rear of the barracks, your beat was about 50 feet from the wall?—A. It was right up aside of the barracks. I don't know the exact distance away from the wall.

Q. Do you know whether the parties got over that wall or not?—A. I didn't see anyone get over the wall.

Q. They could have gotten over without your seeing them?—A. No, sir; I don't think so.

Q. Well, you could not see the scavenger?—A. I could see him working over there at the closet.

Q. You could see the scavenger working?—A. Yes, sir.

Q. So that you knew it was the scavenger?—A. I knew it was a man. I don't know whether it was the scavenger or not. I have never seen him to know him. I knew it was a man working.

Q. And how near is that to the gate?—A. The scavenger?

Q. This is the gate coming from Elizabeth street into the fort—the main gates?—A. I can show you on the map exactly about where he was.

Q. Do so, please.—A. It was right along in here somewheres. B Company is about along in here.

By Senator WARNER:

Q. Just as you were facing the mouth of the alley, it was a little to the left of the mouth of the alley and up from the end of Barracks B to the end of Barracks C?—A. Yes, sir.

Q. Where were you at the time?—A. I was there between B and C Companies' barracks, in rear of the quarters.

Q. So that there was no light near where the scavenger was; no lamp?—A. I don't think there was, except the lamp there on the gate.

Q. The lamp at the gate was near where you were?—A. No, sir; it was on the other side of the scavenger, between B and C Companies' quarters.

Senator FORAKER. What was the answer?

The WITNESS. The lamp at the gate was over on the other side of the scavenger.

By Senator WARNER:

Q. When this shooting started, as you said, the first shot seemed to be in the road?—A. Yes, sir.

Q. And then continued, as long as it lasted, to recede from the barracks?—A. Yes, sir; it seemed like it was farther on down in the town.

Q. Did it occur to you what that shooting was at the time?—A. No, sir; I didn't know. I thought some one was firing at me.

Q. Firing at you?—A. Yes, sir; because the fusillade seemed to be right over to the right of me, up in the alley; I could not see anyone.

Q. But would it not be singular, if they were firing at you, that the fusillade or shooting would be receding down the alley?—A. Wouldn't it be singular?

Q. Would it not be singular, if they were firing at you, that the parties doing the firing would be retreating and going away from you down the alley into the town?—A. I thought at first they were firing at me, but I couldn't hear the bullets hitting around me, and I knew then that the firing wasn't over the way where I was at.

Q. And you knew then that the firing was not at the fort?—A. Yes, sir.

Q. You heard the whistling of no bullets?—A. No, sir.

Q. So that you knew then that the firing was away from the fort. Did it occur to you then what the firing was? You did not think then that they were firing at you?—A. Yes, sir.

Q. What did you think then?—A. I didn't know; only I knew some one was firing in the town.

Q. Had you known of any difficulty between any of the soldiers?—A. I had heard of some soldiers having some trouble in the town.

Q. You knew the difficulty there with reference to a lady on the Sunday evening? Did you not hear of it?—A. I didn't hear about that until after the shooting.

Q. After the shooting?—A. Yes, sir.

Q. You knew that the men were all ordered into camp on the night of the 13th at 8 o'clock?—A. Yes, sir.

Q. That was unusual?—A. Yes, sir.

Q. You knew why that was, did you not?—A. No, sir; I didn't know what was the reason why the men were ordered in.

Q. You did not know it was to prevent trouble between the soldiers and citizens there?—A. No, sir.

Senator PERTUS. About how many shots did you hear fired that night?

A. I guess there was over 50 shots; over 50. I don't know how many over. It was that at least, I think.

By Senator FOSTER:

Q. I would like to have you locate yourself, as near as you can, at the time that you heard the first two shots down in this alley. Just locate yourself on this map.—A. Right along in there, sir.

Q. In front of the barracks?—A. No, sir; in rear of the barracks.

Senator FORAKER. Opposite the center of the space between B and C.

By Senator FOSTER:

Q. Between B and C. How many yards did your beat cover?—A. All the way around the barracks, clear around in front.

Q. About how many yards would you say; just about, as near as you can approximate?—A. All the way around?

Q. All the way around, including your whole beat.—A. I couldn't say, sir. I guess it was something over 500 yards all the way around.

Q. You were the only sentry or guard on that beat at the time of this shooting, were you?—A. Yes, sir.

Q. About how far from where you were standing would you judge that the parties were who fired the first two shots that you heard?

Senator FORAKER. Do you object to his indicating on the map there?

Senator FOSTER. Not at all, sir.

The CHAIRMAN. Just take that rod beside you and stand alongside the map and point out on the map.

By Senator FOSTER:

Q. About how far were the parties who fired the first shots from you?—A. The first shots seemed to be about up in this direction [indicating].

Q. I thought you said the first shots were down in this alley?—A. No, sir; the first shots were along in this road.

Q. About how far from you?—A. About where I am pointing.

Senator WARNER. That is up about Washington street.

Senator FORAKER. You can approximate the distance, can you not?

The CHAIRMAN. The map is drawn to a scale of 30 feet to the inch, and the witness can figure on that basis.

By Senator FOSTER:

Q. Then you heard the next shots coming from what direction?—

A. Up in this alley.

Q. About what distance from you, from where you were standing?—A. Here was where I was standing [indicating].

Q. Yes; about how far would you say that was? You need not be accurate, but just approximate the distance.—A. Something over 75 feet.

Q. Something over 75 feet?—A. Yes, sir.

Q. Now, after you heard this fusillade what did you do?—A. I went on walking guard on post No. 2. About that time the scavenger drove off on his cart away from B Company's rear, and I looked in that direction to see if I could see anyone, and I couldn't see anyone,

That is correct, is it not?—A. I didn't stay until the companies were formed. The companies were forming. What I mean by forming, the men were falling outside of the barracks—the companies were forming at that time.

Q. Is not this, then, correct, that you remained there until the companies had formed? Is that a mistake, too?—A. I remained there until the companies were forming. The companies were forming as I went around.

Q. How long were you in front of the barracks waiting until the companies were forming? No men were down when you got around there. The first man you saw was Major Penrose?—A. Yes, sir.

Q. How long did you remain there before you went around to the rear of the barracks?—A. I suppose it was about three minutes from the time I went around there until I got around in the rear of the barracks.

Q. By that time all the firing had ceased?—A. No, sir; you could hear scattering shots down in the town.

Q. At that time?—A. Yes, sir.

Q. Do you know who, if anybody, came in over the walls during the shooting?—A. No, sir.

Q. Could parties come in without your seeing them?—A. No, sir; not while I was in the rear of the barracks. I could have told whether anybody came in—that is, if they came over the wall anywhere near me.

Q. Suppose somebody came over the wall anywhere in the rear of Barracks C?—A. If I had been along there, I could have told.

Q. During the shooting did you see anyone?—A. No, sir.

Q. Either in rear of Barracks B or C?—A. No, sir.

Q. Or in rear of Barracks D?—A. No, sir.

Q. If a man and two women had gotten over the wall in the rear of Barracks D, you could have seen them, could you not?—A. No, sir; not from where I was at. It was a dark night, and I couldn't see any ways along.

Q. So that persons could have gotten over the wall without your seeing them?—A. Yes, sir.

By the CHAIRMAN:

Q. You say you had the regulation cartridges that night?—A. Yes, sir.

Q. Did you not always have the same cartridges when on guard duty? That is, your guard the night succeeding and the preceding night, also, as they always did, had the same kind of ammunition, did they not?—A. My company always had ball ammunition.

By Senator FORAKER:

Q. Do you know anything about what other companies had?—A. I heard that C Company had guard ammunition.

Q. You heard that?—A. Yes, sir.

Q. That night?—A. I wasn't in C Company.

By the CHAIRMAN:

Q. Were there any more sentinels than usual on guard duty that night?—A. Before the shooting?

Q. Before or after, either one.—A. There were extra sentinels put along the wall after the shooting.

Q. Before the shooting were there any more than usual?—A. No, sir. A patrol went out in the city.

Q. Matters up to midnight were the same as they were the night preceding, were they; there were the same number of men on guard, and armed the same way, and they were changed in the same way?—A. Yes, sir.

Q. Just the same that night as any other night?—A. Yes, sir; they made a patrol down in the town.

Q. That was in the night?—A. Yes, sir.

Q. How many went down town?—A. I don't know. They were patrolling. Several patrols went down and came back.

By Senator FOSTER:

Q. How many ball cartridges, or how many cartridges, did you have in your possession on the night of the 13th?—A. I had 10 rounds on guard with me, and the other 10 rounds was at the barracks in my other belt.

Q. How many cartridges did you return?—A. I only had seven cartridges when I came off of guard.

Q. Did they not take up all the cartridges after that shooting? Did not each soldier surrender all of his cartridges?—A. After the shooting?

Q. Yes.—A. They had inspection and they inspected the ammunition. The officer of the day inspected my ammunition on post the next morning and I had seven rounds.

Q. When you left Fort Brown, how many rounds of cartridges did you have?—A. I disremember. I don't know, sir, how many rounds I had.

Q. Had you received any more cartridges—A. I was in confinement.

Q. (Continuing.) After the night of the 13th?—A. I went into confinement when we left Fort Brown, and I don't know how many rounds of ammunition we had.

Q. You were arrested in Fort Brown?—A. Yes, sir.

(At 12.35 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of recess, at 2 o'clock p. m.

Present, Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, and Overman.

TESTIMONY OF ALEXANDER ASH (COLORED).

(The witness was sworn by Senator Scott.)

By Senator FORAKER:

Q. Tell us your name in full.—A. Alexander Ash.

Q. Were you a member of the Twenty-fifth U. S. Infantry in August last?—A. Yes, sir.

Q. In what company?—A. In Company D.

Q. Were you at Brownsville with your company?—A. Yes, sir.

Q. Where were you on the night of the 13th of August?—A. I was on guard, sir.

Q. You were on guard that night?—A. Yes, sir.

Senator FORAKER. I want at this point to put in evidence the official record of this soldier as given by the War Department, as found at page 275 of Senate Document 155.

The record referred to is as follows:

TRUMP C, NINTH CAVALRY.

ALEXANDER ASH.

Enlisted August 24, 1903; was discharged as a private of Company D, Twenty-fifth Infantry, August 23, 1906, on expiration of term of enlistment; character very good.

Reenlisted August 24, 1906; was discharged without honor as a private of Troop C, Ninth Cavalry, November 13, 1906.

By Senator FORAKER:

Q. I see that you enlisted August 24, 1903, and were discharged August 23, 1906, on expiration of term of enlistment, and it says "Character very good." Then you reenlisted August 24, 1906, and were discharged without honor as a private of Troop C, Ninth Cavalry, November 13, 1906. That is somewhat singular.—A. Yes, sir; I reenlisted and went to the Ninth Cavalry after I was discharged from the Twenty-fifth Infantry.

Q. You were discharged without honor as a private of Troop C, Ninth Cavalry. That is your record, is it?—A. Yes, sir.

Q. That is correct?—A. Yes, sir.

Q. Then your term of enlistment expired shortly after the 13th of August?—A. Yes, sir.

Q. The night of the shooting?—A. Yes, sir.

Q. And after it had expired you were discharged, given an honorable discharge?—A. Yes, sir.

Q. Then after you were discharged with the record "Character very good" you reenlisted. Have you your certificate of discharge from the Twenty-fifth Infantry at that time with you?—A. No, sir; it is down at my room.

Q. I would like to have you bring that up so as to have it in the record.—A. Yes, sir.

Q. And have you your discharge without honor here, with you?—A. No, sir; it is at my room, also.

Q. Bring them up here. I want them put in the record as a part of your testimony. After you were discharged, August 23, you enlisted, August 24, for the Ninth Cavalry. Where did you enlist?—A. At Fort Brown, Tex.

Q. How did you come to enlist in another branch of the service?—A. That was my intention, always, when I would be discharged, to go to the Ninth Cavalry.

Q. To the Ninth Cavalry?—A. Yes, sir.

Q. Why did you want to go to the Ninth Cavalry?—A. I thought that I would like it better than I did the infantry.

Q. You thought you would like the horse better?—A. Yes, sir.

Q. Was the Ninth Cavalry represented there at Fort Brown?—A. No, sir.

Q. Where did you enlist at Fort Brown?—A. They always telegraph the officer at the War Department to get orders to reenlist a man.

Q. Did you telegraph to the War Department or did somebody telegraph for you?—A. No, sir; the adjutant.

Q. The adjutant of the battalion?—A. Yes, sir.

Q. Who was that?—A. Lieutenant Chanler.

Q. Lieutenant Chanler?—A. Yes, sir.

Q. Was he adjutant at this time?—A. Yes, sir.

Q. Was he there on August 13?—A. No, sir; I think not.

Q. He rejoined you afterwards?—A. Yes, sir.

Q. Where was he on the night of August 13?—A. On competition. I believe.

Q. At any rate, you telegraphed him that you would like to reenlist in the Ninth Cavalry?—A. Yes, sir.

Q. And he telegraphed to the War Department, as you were informed?—A. Yes, sir.

Q. And he got back from the War Department a telegram authorizing you to be reenlisted in the Ninth Cavalry?—A. Yes, sir.

Q. So that you were honorably discharged from the Twenty-fifth Infantry and reenlisted in the Ninth Cavalry?—A. Yes, sir.

Q. And then later you were discharged from the Ninth Cavalry without honor?—A. Yes, sir.

Q. Where were you when you were discharged?—A. At Fort Riley, Kans.

Q. Had you joined your regiment?—A. Yes, sir.

Q. You were on duty with your company?—A. Yes, sir.

Q. Who notified you that you were discharged without honor?—A. My captain, Captain McCormick.

Q. Where were you the night of August 13?—A. I was at Fort Brown, in the State of Texas. I was on guard the night of the 13th.

Q. You were on guard?—A. Yes, sir.

Q. Where were you when the firing commenced?—A. I was on No. 4 post.

(The map was explained to the witness by Senator Scott.)

By Senator SCOTT:

Q. You were a member of what company?—A. Company D.

Q. This is the gate here [indicating]. Now, where was your post, No. 4?—A. It was over at the quartermaster's department.

Q. Away over here [indicating]?—A. Yes, sir; around the quartermaster's and commissary's storehouses.

Q. At the commissary's and quartermaster's storehouses, over here?—A. Yes, sir.

Senator FORAKER:

Q. Where were you when the firing commenced?—A. I was down about the quartermaster's department.

Q. I wish you would take that rod and indicate just about where you were, as near as you can.—A. Is this the front side or the back side [indicating]?

Q. That is toward the Rio Grande River.

Senator SCOTT. This is the line of the road through the reservation [indicating].

The WITNESS. This must be the road here, isn't it [indicating]?

Senator FORAKER. Yes.

The WITNESS. I was down around the quartermaster's.

By Senator SCOTT:

Q. Where was your beat? Where did you walk?—A. My beat was from the commissary's around, taking in the baker's shop, and go all the way around again.

By Senator FORAKER:

Q. Do you know where the water tank is?—A. Yes, sir; it was to my left.

Q. The water tank is over beyond?—A. Away over here [indicating].

Q. Yes.—A. Well, I took it all in. That looks different to me on that map.

Q. Do you know where the pump house was?—A. Yes, sir.

Q. There is the tank and there was a shed where Major Penrose's horses were kept and there is the pump house [indicating on map]?—A. Yes, sir.

Q. And over here is the granary. Now, how far did your beat extend? Did it take in the pump house and the tank?—A. One minute, Senator. This quartermaster's building—you will remember these buildings here—the quartermaster's department was on the other side of those buildings [indicating on map]. The quartermaster's building was the last building down on my post.

By Senator OVERMAN:

Q. Was there not an ordnance house there, where they kept the ordnance?—A. The ordnance house was beyond yet. It was beyond my beat.

Senator FORAKER. What is that?

Senator OVERMAN. I saw somewhere a statement that there was an ordnance house there, and this witness says there was, over beyond here, beyond his beat.

By Senator FORAKER:

Q. Your beat did not extend as far as the ordnance house?—A. No, sir; only to the quartermaster's department.

Q. Right around those buildings?—A. Right around those buildings.

Q. Where were you, if you are able to tell us, when this firing commenced?—A. I will explain to you. I was about here, turning the corner, going toward the baker's shop; that is in the direction of this building, you see [indicating on map].

Q. Yes.—A. Coming around here, and going right on around.

Q. At what time did you go on duty—on post?—A. Half past 10 o'clock.

Q. Whose relief did you belong to?—A. Corporal Wheeler's.

Q. And you started up there toward the baker's shop. Now, what occurred; what did you hear?—A. The first thing that I heard was a couple of shots kind of off to my right. The way I was going, after I turned made it to my right, to the road.

Q. How far away from you were those shots?—A. I couldn't tell how far away. It sounded like it was off a piece toward that road. I couldn't tell whether it was in that road or outside of the road.

Q. Were you ever out to that country road?—A. No, sir; I only heard them say there was a road there.

Q. You heard people say that there was a road there?—A. Yes, sir.

Q. You heard shots?—A. Yes, sir.

Q. How many shots?—A. Two shots first.

Q. Then what next?—A. Then I heard something that sounded to me like horses' feet, it sounded to me like coming around that road, and later on I heard a few shots near Allison's saloon.

Q. Near Allison's saloon?—A. Yes, sir.

Q. Can you point out where that is on that map?—A. That is a pretty hard thing for me to do.

Q. There is the garrison road, Fifteenth street [indicating].—A. Yes, sir.

Q. There is the guardhouse to the right of where your pointer is on that map.—A. This is the guardhouse [indicating]?

Q. Yes.—A. The saloon was somewheres about here [indicating].

Q. It was up beyond the corner of the reservation?—A. Yes, sir; it was beyond the reservation.

Q. Were you ever at that saloon?—A. Yes, sir.

Q. Was there or not a road coming into Fifteenth street, or Garrison road, as we call it, at the point where the saloon was located?—A. Yes, sir.

Q. That road extended out in what direction?—A. I don't know whether it was east, north, or south.

Q. I mean did it extend out in the general direction of the post that you were on?—A. That road from the——

Q. That road that you called the post road?—A. Yes, sir; it led down toward the Rio Grande, if I am not mistaken.

Q. Now, you heard two shots fired there, and then you heard some more shots toward Allison's saloon?—A. Yes, sir.

Q. About how many shots did you hear toward Allison's saloon?—A. I couldn't say whether it was three or four. It may have been more or it may have been less—I couldn't say.

Q. In the meanwhile you heard something more?—A. Yes, sir; I heard a fusillade of shots.

Q. No; I mean in the meantime—you spoke about horses.—A. I heard those horses, and after I heard those horses I heard a few more shots around toward Allison's saloon.

Q. Where did you hear the next shots?—A. The next shots I heard was down in the vicinity of the barracks, around that road somewhere; I couldn't tell where; but it was a fusillade of shots.

Q. What did you hear next?—A. The next I heard was the call to arms going.

Q. What was done after that, if you know?—A. After that, soon after that, Corporal Madison and two men came by my post, and I halted them, and they told me that some one was firing on the post, and they came down to the noncommissioned officers' line to see if any bullets had hit the houses or anything; and then after he had went on, the corral boss came by running toward the hospital, and he said that he was in a hurry and wanted to get to the hospital and see if they needed an ambulance. He went on.

Q. Who was that?—A. I don't know what his name was.

Q. You know that he was the corral boss?—A. Yes, sir; I know that he was the corral boss. Then there was an awful noise in the

hospital of men getting up, and lighting lamps, and coming down the steps.

Q. Did you give any alarm?—A. No, sir; no alarm that I gave that night.

Q. Did you fire your piece?—A. No, sir.

Q. How long did you remain on that post?—A. I remained on the post until about half past 2.

Q. Two o'clock?—A. Half past 2.

Q. Then what happened?—A. I was relieved off of guard next morning; nothing more until next morning, when Captain Macklin came around then and inspected our guns and cartridges, and so forth.

Q. Where were you when your gun was inspected?—A. At the guardhouse.

Q. Why were you not put back on the post?—A. That was a night post only. Nobody walked it in the daytime.

Q. What?—A. No one walked that post in the daytime. It was only in the night.

Q. It was withdrawn in the daytime?—A. Yes, sir.

Q. So that you were on the guardhouse?—A. Yes, sir; I was at the guardhouse.

Q. You were there when Captain Macklin came?—A. Yes, sir.

Q. What occurred when he came?—A. He came and inspected our guns and cartridges to see if we had our right ammunition on us.

Q. Who was the sergeant of the guard?—A. I don't know who the sergeant of the guard was.

Q. Was it Sergeant Reid?—A. He was the commander of the guard—supposed to be.

Q. He was the commander of the guard?—A. Yes, sir.

Q. Do you not call the commander of the guard the sergeant of the guard?—A. No, sir; the sergeant of the guard—well, the commander of the guard would be an officer or a senior noncommissioned officer.

Q. Captain Macklin was officer of the day?—A. Yes, sir.

Q. Was the guard turned out when Captain Macklin came?—A. Was it turned out? Yes, sir.

Q. State how many men were there, if you can.—A. I couldn't tell how many men were there. I couldn't say.

Q. It was not your business to take account of the men?—A. No, sir.

Q. Do you know whether they were all there or not; whether any of them were missing or on pass?—A. I couldn't tell. I didn't hear of anybody being missing. I don't count them or anything.

Q. What was done as to inspecting the arms? Were they inspected or not?—A. Yes, sir; they were inspected. My gun was inspected, and also the rest of the men's who were there.

Q. What was the result of that investigation or inspection?—A. Well, it must have been satisfactory, because nothing was said and no one stepped out or anything.

Q. All passed?—A. Yes, sir.

Q. Were or not your guns inspected the day before when you went on guard?—A. Yes, sir.

Q. They were all found clean and acceptable then?—A. Yes, sir.

Q. Do you know who did this shooting?—A. No, sir; I do not.

Q. Did you have anything to do with it?—A. No, sir.

Q. Did you have any knowledge that leads you to suspect anybody in your company?—A. No, sir; I did not.

Q. Or in either of the other companies?—A. No, sir.

Q. Have you withheld any knowledge from anybody in regard to this?—A. No, sir.

Q. (Continuing.) Who has asked you about it?—A. No, sir.

Q. Have you been free at all times to tell all you know about it?—A. Yes, sir.

Q. Are you telling us all you know about it now?—A. Yes, sir.

Senator FORAKER. There are a good many questions that I might ask this witness, but they will be on the lines along which we have been questioning others, and I will pass them by at this time—about cleaning guns, and about the cartridges, etc. I want the record to show that I pass that by at this time.

By Senator BULKELEY:

Q. When you are on duty do you have your pieces loaded?—A. No, sir.

Q. Either day or night?—A. Neither day nor night.

By Senator OVERMAN:

Q. What was kept at that ordnance storehouse back there?—A. I don't know, sir.

By Senator FORAKER:

Q. You were not one of the twelve who were arrested, were you?—A. No, sir.

By Senator WARNER:

Q. Look at that map. You see the road running through the reservation, with the bakery marked "66" on one side and the cavalry stable "48," I think it is, on the other side. You notice that, do you not?—A. Marked "66?" Oh, yes, sir; I see it. I see the bakery shop now.

Q. The quartermaster's and commissary's were about as designated there with reference to the bakery and the cavalry stable, were they not?—A. I didn't understand you.

Q. They were about as designated on that map—the location of the quartermaster's and commissary's storehouses?—A. No, sir; the quartermaster's storehouse is not represented at all the way it is in Fort Brown.

Q. Where would it be?—A. It would be away down below this pump house here. The pump house would be between the commissary, and also the quartermaster's stable would be between the commissary and the quartermaster's department.

Q. And you were at that point, beyond what would be the pump house?—A. Yes, sir; I would be beyond all those buildings, right at the quartermaster's.

Q. You heard a shot that seemed to be either in the road or at the side of the road?—A. Yes, sir.

Q. Which road do you refer to?—A. The road beyond the bakery shop.

Q. That is the road between the baker's shop and the cavalry stable, there?—A. Yes, sir.

Q. That is the road you refer to?—A. Yes, sir.

Q. Now, taking the cavalry stable, No. 55, there seems to be one building numbered "48" and another marked "55." Where would those shots be; where would you locate them, with reference to the cavalry stable numbered "55" on the map?—A. The cavalry stable No. 55? I don't know anything—

Q. That is the one to the right.—A. Yes, sir; I see that on the map. Senator OVERMAN. Near the granary.

The WITNESS. Yes, sir. No. "48" is the one near to where the shooting seemed to me to be, nearer than to "55."

By Senator WARNER:

Q. It seemed to be nearer "48"?—A. Yes, sir.

Q. And you heard the one shot fired from that direction?—A. Two shots.

Q. Two shots?—A. Yes, sir.

Q. And what next did you hear?—A. What next did I hear? The sound of horses' feet, it seemed to me, going around that road.

Q. Horses' feet, and on what road?—A. That road in the rear of the baker's shop; only it is on the outside there. Of course there is nothing there to show the way that road is.

Senator FORAKER. I did not hear that answer. Speak a little louder.

The WITNESS. It seemed to be on that road to the right of me, the way I was going.

By Senator WARNER:

Q. That is on the country road?—A. Yes, sir.

Q. A good many horses?—A. No, sir; I couldn't say whether there was a good many or few. There seemed to be horses' feet.

Q. Horses running?—A. Yes, sir.

Q. In what direction?—A. It seemed to be in that road, going toward Allison's.

Q. Going toward Allison's saloon?—A. Yes, sir.

Q. Did you hear any shouting?—A. No, sir.

Q. You heard no shouting on that road?—A. I heard two shots before the horses, and then later on I heard two shots nearer Allison's saloon; in that vicinity, at any rate.

Q. What other shots did you hear?—A. I heard a fusillade of shots around the vicinity of the barracks. I couldn't tell how many.

Q. Between the time that you heard those shots on the road, whatever direction it may have been, up in the road in the direction of Allison's saloon, and the fusillade, you heard no shots between those?—A. No, sir; I didn't hear any.

Q. You did not hear any shots from down by the barracks—three shots from the sentry?—A. No, sir.

Q. You are quite clear about that?—A. Yes, sir.

Q. Now, when you speak of a fusillade, you mean that was a volley?—A. I couldn't say it was a volley; no, sir. It sounded just the same as if some one would shoot, "Boom, boom, boom, boom" [witness imitating]; something like that.

Q. You are a soldier, and you know what I mean. Was it a volley or like soldiers or persons shooting at will?—A. Shooting at will, it sounded like.

Q. Shooting at will?—A. It didn't sound anything like a volley; no, sir.

Q. Then where did you go?—A. I still remained on my post until I was relieved.

Q. You did not go to the hospital?—A. No, sir.

Q. Or to the guardhouse?—A. No, sir.

Q. But you remained there?—A. I remained on my post.

Q. When was the call to arms with reference to this fusillade?—

A. When was it sounded?

Q. Yes.—A. It sounded immediately afterwards, it seemed; as quick as it could be sounded, it seemed to me.

Q. You remained on duty that night four hours?—A. Yes, sir.

Q. Your usual duty would have been from 10.30 to 12.30?—A. To 12.30; yes, sir.

Q. But you remained up there—A. Until 2.30.

Q. You went off duty at 2.30, which made you four hours?—A. Made me four hours.

Q. Did you hear any bullets whistling?—A. No, sir; I didn't hear any bullets whistling.

Q. About where were you when Corporal Madison met you?—A. I was on the road then. I had made my round, going around.

Q. Pardon me a minute. When you say you were on the road, what road do you mean?—A. I mean on the road going down to the noncommissioned officers' line.

Senator FORAKER. Indicate with that rod. Let him indicate, if you do not object, Senator. I would like to get it into the record.

Senator WARNER. Certainly.

The WITNESS. Here is the commissary, and I had been going around here, and my course was right down the road until I got here [indicating on map].

Senator FORAKER. There is the dry lagoon right under your pointer. Do you see that?

Senator OVERMAN. This is the road that runs in the rear of the officers' quarters, is it not? Here is the road [indicating on map].

A. Right in rear of the officers' quarters, over here, and here it branches out [indicating]. All of this comes together here, and my post extended on out and came out in the road.

By Senator WARNER:

Q. Who was with Corporal Madison?—A. I couldn't say. It was two men, privates, I think.

Q. In what direction was that from the guardhouse?—A. That was going away from the guardhouse.

Q. Going away from the guardhouse. Here is the guardhouse, and they were going that way [indicating]?—A. Yes, sir.

Q. That is, going away from the guardhouse as far as the parade ground was concerned and the barracks?—A. How is that?

Q. The parade ground and the barracks?—A. They were going away from the guardhouse.

Q. Yes.—A. Here is the guardhouse here, and I was on my post, and he was going away from the guardhouse. If I met him here, the guardhouse must have been behind him.

Q. He was coming, then, from the guardhouse over in the general direction of the pump house, which is marked on this map "No. 56"?—A. Yes, sir.

Q. And about how far from the pump house was it that you met

Corporal Madison?—A. I couldn't say. It was between the commissary and the pump house. I couldn't say how far.

Q. How far from the guardhouse?—A. I couldn't say.

Q. Could you not give an estimate, 150 yards or 200 yards, or what?—A. I couldn't give any estimate, how far it was, from the guardhouse to the pump house. It was a pretty good distance.

Q. Can you not remember the names of those two men with Corporal Madison then?—A. No, sir; I could not.

Q. Did they have their guns then?—A. Yes, sir; I think they had their guns with them.

Senator HEMENWAY. I did not hear you. What did you say?

The WITNESS. What did you say, sir?

By Senator WARNER:

Q. Did they have their guns with them?—A. Yes, sir; they had their guns.

Q. How were they going, ordinary time or double time?—A. They were going ordinary time.

Q. Walking along in your direction?—A. Yes, sir.

Q. How long was this, if at all, after the fusillade you heard?—A. I couldn't say. It was about——

Q. How long was it after the call to arms, if at all?—A. Oh, it was perhaps twenty minutes. It may have been longer than that. I can't tell. It has been so long now that I can't remember.

Q. Had the firing ceased at that time?—A. Yes, sir.

Q. And they were coming, they told you, for what purpose?—A. Yes, sir.

Q. What purpose did they say they were going over there for?—A. They told me they had orders to go down there to see if any of the bullets had hit those noncommissioned officers' quarters.

Q. Did they ask you if you had heard bullets?—A. No, sir; they didn't ask me.

Q. Did you make any examination afterwards to find if any of the bullets had hit any of the quarters there?—A. No, sir.

Q. Any time?—A. No, sir; it wasn't my duty to find out anything about it.

Q. Did you make any investigation anywhere about the barracks?—A. No, sir.

Q. Did you make any inquiry about who did the shooting?—A. Yes, sir; I did.

Q. Of whom did you make the inquiry?—A. I asked who did it.

Q. Whom did you ask?—A. I asked different soldiers; I couldn't say.

Q. Who did it?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you notice which way Corporal Madison went after they left you?—A. I don't know, sir; I didn't pay any attention.

Q. Did you see him any more that night?—A. No, sir.

Q. They were going in an opposite direction from the barracks?—A. Yes, sir; the barracks are back here, and they were going to the noncommissioned officers' line. Of course, those barracks there [indicating on map], they say they are officers' quarters, but I have never known any officers' quarters to be there.

By Senator WARNER:

Q. In the morning your gun was inspected, you say, at the guard-house?—A. Yes, sir; at guard mount.

Q. And you do not know how many reported at guard mount?—A. No, sir.

Q. Nor do you know the name of the sergeant of the guard?—A. I know Sergeant Reid was on guard. He was the senior sergeant on guard. I don't know whether there were two sergeants or one; I disremember.

Q. You made a distinction in your examination, as I remember, between the officer of the guard and the sergeant commanding the guard?—A. Yes, sir; there can be a noncommissioned officer commanding the guard—that is, when there are two sergeants on guard.

Q. Were there two sergeants or one sergeant on guard there that night?—A. I can't remember whether there were two or one.

Q. Do you remember how many there were at guard mount when the inspection was made?—A. No, sir; I do not.

Q. Was the roll called?—A. The roll called on guard mount?

Q. Yes.—A. No, sir; not as I know of. I have never heard of a roll being called on guard mount.

Q. I am asking you if there was a roll call at this time?—A. No, sir; not that I know of.

Q. At that time there was nobody on post No. 4, because that was a night post?—A. Not as I know of. It was half past 2 when I was relieved, and of course somebody was on after I went off.

Q. Yes. Now, as to this fusillade you spoke of—where was it?—A. It seemed to be around the vicinity of the barracks somewhere; I don't know where.

Q. And that immediately followed those two shots you spoke of?—A. It immediately followed those two shots I heard around toward Allison's saloon.

Q. And how far is Allison's saloon from, say, Barracks C?—A. I can't tell.

Q. You know it was several hundred yards, was it not?—A. Yes, sir.

Q. About how many hundred yards?—A. I couldn't say. I never knew the distance there.

Q. So that it would have been impossible for the parties who did the shooting at Allison's saloon to have been down around there doing that other shooting?—A. Oh, no; no, sir; I couldn't say that.

Q. So that there was time enough for them?—A. Yes, sir.

Q. To get there. About how many shots did you hear in the fusillade?—A. I don't know, sir.

Q. How many did you hear, just approximately?—A. I couldn't judge how many.

Q. Have you any idea how many—15 or 20 or 30?—A. There may have been more.

Q. What is your judgment?—A. I haven't any judgment about it. I couldn't say how many shots there was.

The CHAIRMAN. Talk a little louder, please.

By Senator WARNER:

Q. Now, did you locate which barracks it was in rear of?—A. No, sir.

Q. The shooting?—A. No, sir; I didn't.

Q. Did you see any men at all at that time?—A. No, sir.

Q. Excepting Corporal Madison and the two men who were with him?—A. Not outside of the corral boss. That is the only one I seen.

Q. You do not know whether you saw the hospital man or not?—A. No, sir; I didn't see anyone from the hospital.

Q. But the first shots you heard from the direction of the barracks you are clear were that fusillade where they seemed to be firing at will, you say?—A. Yes, sir; in the vicinity of the barracks.

Q. You say you can not tell how many shots there were. I want to get some idea. Were there as many as 10, in your judgment, at least?—A. Oh, it was more than that.

Q. More than that in that fusillade?—A. Yes, sir.

Q. What was the nature of the inspection that was made of your guns at guard mount?—A. What was the nature of the inspection?

Q. Yes; how was it made?—A. It was made by the adjutant, Lieutenant Grier. He passed along the line and we had inspection, the same as we would on Saturday or monthly inspection.

Q. Was it Lieutenant Grier who made that inspection?—A. Yes, sir; at guard mount.

Q. You were then at the guardhouse, were you?—A. No, sir; on the parade ground near the guardhouse.

Q. I am speaking of the morning of the 14th, after the shooting?—A. On the morning after the shooting?

Q. Yes.—A. When we were inspected at guard mount, you said?

Q. At the guardhouse, I should have said.—A. What was the result?

Q. No; how was the inspection made?—A. It was made by him falling the men in and inspecting each man's gun.

Q. What did they do to inspect them?—A. Ran a rod through, and a piece of white cloth.

Q. Ran a rod through every gun?—A. Yes, sir; ran a rod through every gun.

Q. Did he have one of those brass rods?—A. Yes, sir; he had a brass rod.

Q. The same as you have in your hand now?—A. Yes, sir.

Q. That was made by Captain Macklin?—A. The inspection; yes, sir.

Q. Did he look through the guns first before using the rod?—A. Yes, sir.

Q. What was the necessity of using the rod and the cloth?—A. I guess that he wanted to be certain what he was doing.

Q. And every gun he inspected that way. You are quite clear about that?—A. Yes, sir.

Q. Your gun among the others?—A. Yes, sir.

Q. Do you know who was on post No. 2 that night?—A. Yes, sir; I do.

Q. Who was it?—A. I think Howard was one; Joseph Howard, Sam Battle, and another man; I disremember who he was.

Q. Where were they at the time of this inspection?—A. Howard was on post, I believe. Yes, he was on post.

Q. He was not at the guardhouse?—A. No, sir.

Q. Were any of the guns found dirty?—A. No, sir.

Q. All perfectly clean?—A. Yes, sir; all perfectly clean.

Q. Why did you not discharge your gun when you heard the shooting?—A. There wasn't any use for me firing my gun when I heard the shooting.

Q. Why not?—A. Because it wasn't in the vicinity of my post.

Q. Was it not nearer your post than any other post?—A. No, sir.

Q. What post was it nearer to than the others when you heard those two shots?—A. Those two shots?

Q. Yes.—A. It was nearer to my post than any other, then. But after I turned around I heard no more than those scattered shots toward Allison's, and I thought it was no use my shooting, and I thought I used my best judgment by not firing.

Q. Had you no other reason?—A. No, sir; no other reason.

Q. That was your best judgment at the time?—A. Yes, sir; that was my best judgment at the time.

Q. You knew the next morning that it was charged that some of the soldiers of the battalion had done the shooting up of the town, did you not?—A. No, sir; I didn't know it the next morning.

Q. The next day?—A. The next day I heard it discussed amongst the soldiers, wondering who done it; but yet they never had found out who done it or who they said had done the shooting.

Q. After you heard this fusillade, you heard a good many more shots, did you not?—A. No, sir.

Q. You only heard the fusillade?—A. Only the one fusillade; that is all I heard.

Q. About how many shots, altogether?—A. I couldn't say how many shots altogether. I couldn't say.

Senator FORAKER. What did he add there? I want all of that answer.

(The answer was repeated by the stenographer.)

By Senator WARNER:

Q. The firing ceased with this fusillade, did it not?—A. Yes, sir; so far as I know.

Q. You were on duty there all the time?—A. Yes, sir.

Q. Then, you want the committee to understand that all of the shots you heard were those out in the neighborhood of the road that you have spoken of, those two in the neighborhood of Allison's saloon and that one fusillade down at the barracks?—A. I want the committee to understand that?

Q. Yes; is that your evidence?—A. Yes, sir; that is my evidence.

Q. Yes.—A. That is what I know.

Senator WARNER. That is all.

By Senator FORAKER:

Q. How long did the fusillade last that was down about the barracks?—A. That fusillade lasted five or six minutes.

Q. Five or six minutes?—A. Yes, sir.

Q. Can you give us any idea how many shots were included in that fusillade that you refer to?—A. No, sir; I could not.

Q. I want to refresh your recollection, if I can, as to your meeting with Corporal Madison. He has testified before us. See if you can remember this after I tell you. He says that he was accompanied by privates Thomas L. Moseley and Mark Garman. Do you know those

men now?—A. Yes, sir; I know them, but I don't know whether they were with him. I couldn't say. I don't remember.

Q. You do not remember those men?—A. I don't remember.

Q. That is all right, then. There is a little confusion in my own mind as to which road you referred to when you said those two shots sounded to you like they were on this road out there. Do you mean the reservation road or the country road beyond it?—A. I tell you, I don't know about this map. It is all fixed up here backwards. I can't tell you anything about it. This is nothing like what I remember.

Q. It does not seem to recall everything to you, does it?—A. No, sir; it doesn't.

Q. Put your rod up to what is indicated as a road on that map. Now, that is supposed to be a road in the reservation, and there is the cavalry stable on that road. It has been testified that there is another road beyond that.—A. That is the one I am talking about, farther than this road right here [indicating].

By the CHAIRMAN:

Q. That is a road not shown on that map?—A. Yes, sir.

By Senator WARNER:

Q. I may have misunderstood you. I thought I had asked you where you heard that shooting on the road, if it is the road there that is marked running between what is marked the cavalry stable and the bakery.—A. You thought you asked me that?

Q. Yes.—A. I didn't understand you to ask me anything about this road here [indicating].

Q. You did not?—A. No, sir.

Senator WARNER. All right, that is all.

By Senator FORAKER:

Q. How far is that road where you heard the first shots from the spot where you were standing when you first heard them?—A. What road?

Q. The road on which this first shooting took place?—A. I don't know what position it would be from this. It must have been around over the other side of the reservation there. I couldn't say.

Q. About how far?—A. Two hundred or 300 yards, maybe. I couldn't say.

Q. Was that a dirt road or a gravel road or a rock road?—A. I don't know. I never saw it. I never went over there. I never was on that road.

By Senator LODGE:

Q. You heard the horses on it, you say?—A. Yes, sir.

By Senator FOSTER:

Q. Were they a number of horses that you heard?—A. I couldn't say whether it was a number. It sounded like horses running.

Q. You heard the horses running distinctly, did you?—A. Yes, sir.

Q. And then after you heard the first two shots you heard two more shots on the same road, as I understand?—A. Yes, sir; around near Anderson's saloon.

By Senator FORAKER:

Q. Are you saying "Anderson's" or "Allison's?"—A. Allison's. I called it "Anderson's."

By Senator FOSTER:

Q. About how far is Allison's saloon from the place where you were standing that night?—A. Allison's saloon is around in here somewhere. I don't know where it is [indicating on map].

Q. About how far would you say it was?—A. About 500 or 600 yards; maybe farther.

Q. About how far?—A. Five hundred or 600 yards.

The CHAIRMAN. Witness, I must tell you again to try to speak a little louder. I do not want you to do impossibilities, but we want to hear you plainly.

By Senator FOSTER:

Q. You may locate on that map, as near as you can, where you heard the fusillade?—A. I can't tell anything about this map.

Q. How is that?—A. I can't tell anything about this map. If somebody would point it out, maybe I could tell. I can't tell.

(The map was here further explained to the witness by Senator Warner.)

Q. Now, locate the spot, as near as you can, from which you heard the fusillade?—A. Locate the spot?

Q. Yes; as near as you can.—A. There is no way I could locate the spot from which I heard the fusillade. All I can tell you is that it was in the vicinity of these barracks. I don't know what barracks they were.

Q. Do you know whether it was Barracks B or C or D?—A. I can't tell you. It was in the vicinity of those barracks somewhere. I couldn't tell from down in here what barracks it was at or what barracks up there.

Q. How long an interval was there between the last two shots you heard and the fusillade?—A. It wasn't very long; a few minutes.

Q. If a party had been standing between Barracks B and Barracks C and discharged his Winchester rifle, you would have heard that?—A. Let me hear you again, sir.

Q. I should say a Springfield rifle. If a party had been standing between Barracks B and C and discharged a Springfield rifle, you would have heard the report of the rifle from where you were standing?—A. Yes, sir.

Q. Are you certain of that?—A. Certainly I would have heard the report of the gun.

Q. And you are certain you heard no report of a gun that night from the barracks or near the barracks?—A. I can't say.

Q. What did you say?—A. Heard it from the barracks?

Q. Did you hear three reports from any rifle that night between Barracks C and Barracks B?—A. No, sir; I can't say I heard any three shots from Barracks B or C, either.

Q. If they had been fired from there, could you have heard them?—A. If there hadn't been anything else going on, I could have heard them.

Q. You heard the first two shots?—A. Yes, sir.

Q. You heard the second two shots?—A. Yes, sir.

Q. Could you have heard the three shots?—A. Suppose those three shots had been fired at the same time those fusillade shots were being fired, could I have heard them distinct from the fusillade?

Q. Suppose they were not fired at the time of the fusillade?—A. Yes, sir; I could have heard them.

Q. Have you ever given any affidavit before this?—A. No more than a few questions asked me. I was examined at Fort Brown.

Q. Who examined you?—A. Lieutenant West and Captain Lyon.

Q. No one else?—A. No, sir.

Q. Did you answer these questions before?—A. No, sir; he didn't ask these questions.

Q. You didn't tell them anything but what you were asked?—A. No, sir; no more than what they asked me.

Q. You were asked to tell all about it?—A. Yes, sir.

Q. And you didn't tell them?—A. They asked me different questions, and I guess they put down what they wanted to.

Q. Did they ask you to tell what you wanted to?—A. They asked me to tell what I heard about it.

Q. Didn't they ask you to tell what you knew about it?—A. If I had told what I heard about it, that would have been what I knew about it.

Q. If you had told what you heard, that would have been what you knew?—A. Yes, sir.

Q. Did you tell what you knew?—A. I didn't go on to explain anything about what I heard on guard or about the shooting.

Q. You didn't mention the horses running?—A. Yes, sir; I mentioned that.

Q. You mentioned the shots, but not the horses running?—A. Yes, sir; that was told, too.

Q. Where was the first sounding of the call to arms given that night?—A. Where was it given?

Q. Yes; from the barracks or the guardhouse?—A. That would be pretty hard for me to say. I was on post.

Q. You were on post?—A. It was at the guardhouse where I first heard it.

Q. You heard it first at the guardhouse?—A. Yes, sir.

Q. Did you hear another one besides that at the guardhouse?—A. No, sir; I did not. It may have been blown from the barracks at the same time the trumpeter at the guardhouse was blowing it.

Q. If they had been blown at different times you could have heard it?—A. Oh, yes, sir; then I could have heard it.

Q. But you heard it only from the guardhouse?—A. I heard it only from the guardhouse; yes, sir.

Q. How long was that after the fusillade?—A. Only a few minutes. I couldn't say. It may have been a minute or it may have been longer.

Q. How many cartridges did you have that night?—A. I had 10 rounds of ammunition that night.

Q. Did you have any more?—A. Yes, sir.

Q. How many more?—A. Ten.

Q. Where were those cartridges distributed?—A. Where were they distributed?

Q. Where did you receive them—at Fort Brown or—A. At Fort Niobrara, Nebr.

Q. Did you receive any additional ammunition that night?—A. No, sir; I did not.

Q. You remained on post until half past 2, and then went to bed in the guardhouse?—A. Yes, sir.

Q. And remained how long?—A. I remained until the next morning. At reveille we were called up for inspection.

Q. What hour was that?—A. I don't know. I know it was after sunup—half past 6 or 7 o'clock, or something like that.

By Senator LODGE:

Q. Did you have any trouble at Brownsville at any time?—A. No, sir.

Q. You never were interfered with there in any way?—A. No, sir. I never was interfered with in Brownsville; only the night of the 13th I was sent out as a patrol by myself, and I had no gun or nothing. Captain Macklin sent me down to a place at the wharf where they come across from Mexico to the American side, and as I was standing there I had lots of Brownsville natives—I guess they were—come up, and one man wanted to collect the revenue, and they wanted to run me away from there, and there was another man, he wouldn't let them, and several more came up and wanted to know what was that negro doing there, and all that kind of talk. That was all the trouble I had there. I never had any trouble of any kind.

By Senator OVERMAN:

Q. That was at the ferry?—A. Yes, sir.

Q. Did you see the ferryboat come over?—A. Yes, sir.

Q. How many colored men were there on it?—A. There wasn't any.

Q. There were not any soldiers on it?—A. No, sir.

Q. Do you know that there were 15 or 20 men over in Matamoras that day?—A. No, sir.

Q. Were there any over there?—A. No, sir.

Q. You were not over there?—A. No, sir; I wasn't over there.

By Senator LODGE:

Q. Did you know Hoytt Robinson, of Company D?—A. Hoytt Robinson?

Q. Yes.—A. Yes, sir.

Q. Did you tell him that you were repeatedly insulted and abused while in the town?—A. I did not; no, sir.

Q. You didn't say that?—A. No, sir.

Senator LODGE. Hoytt Robinson testified that he did.

By Senator FORAKER:

Q. What time was it that you were down at the wharf?—A. Between half past 7 and 8 o'clock.

Q. Between half past 7 and 8 o'clock?—A. Yes, sir.

Q. You did not have your gun with you?—A. No, sir.

Q. You were sent by the officer of the day?—A. Yes, sir.

Q. What were you sent there for?—A. To tell all the soldiers on pass at Matamoras when they came across that they should come back to the barracks. The orders from Major Penrose was for all the soldiers to be in at 8 o'clock.

Q. Did you find any soldiers?—A. No, sir.

Q. None came across while you were there?—A. No, sir.

Q. And it was while you were there at that time that they were asking you what you were doing there?—A. Yes, sir.

Q. Then what was it that occurred?—A. They went on to ask—one wanted to make me leave there and another told him no; that I was attending to my business, and—

Q. Who was the collector?—A. I don't know his name. I knowed him when I seen him, but I don't know his name.

Q. What did they do?—A. Another walked up, and he says to another one, "Is that a damned negro soldier standing there?" and he says, "Yes;" and then he says, "What does he want standing around there?"

Q. That is what they said?—A. Yes, sir; and then remarks passed by people walking up and standing around there.

Q. If Hoytt Robinson testified that you told him you were insulted at that time, does that have reference to that talk of which you speak?—A. Yes, sir.

Senator LONGE. On page 225 Hoytt Robinson makes deposition before the Constitutional League:

Private Ash further alleged to the deponent that upon his return he was repeatedly insulted and abused while in town.

By Senator FORAKER:

Q. Do you recall now, since that has been read to you, having any talk with him of that kind?—A. Yes, sir.

Q. You remember telling him?—A. Yes, sir; I remember telling him about it.

Senator FORAKER. At this point I desire to have inserted in the record the affidavit of Hoytt Robinson, found on pages 224 and 225 of Senate Document No. 155.

The affidavit referred to is as follows:

AFFIDAVIT F.—Hoytt Robinson, Company D. Relative to sounding call to arms on night of August 13.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, Hoytt Robinson, musician, Company D, deposes and says that he has served in the United States Army five years, and that he was garrisoned at Fort Brown on the 13th day of August; that on the night of said date he was detailed as musician of the guard and was assigned to tower of the guard; that about 12.20 o'clock he was aroused by Sergeant Reed, commander of the guard, and told to sound the alarm of "call to arms;" that while he was sounding the "call to arms" the firing was still going on furiously, and it was back in the town of Brownsville, Tex., from the wall of the post and was some distance from post of guards, and that about the hour or near thereto the hour of 7 o'clock Captain Macklin, officer of the day, came to guardhouse and sent two men, Corporal Wheeler, Company D, and Corporal Franklin, Company B, out in town with instructions to bring in every man in town, and tell him he must not be out of post after 8 o'clock that night, August 13, 1906; and Captain Macklin sent Private Ash, Company D, to the wharf at Brownsville, Tex., to intercept any men going over to Matamoros, and tell any returning to proceed to the fort at once, as no man was to be outside of said post after 8 o'clock. Private Ash asked if he should take his gun, to which Captain Macklin replied "No."

Private Ash further alleged to the deponent that upon his return he was repeatedly insulted and abused while in town. Affiant further deposes and says that after he was relieved at 2 o'clock a. m., August 14, 1906, he saw a

number of citizens walking around the fort wall with guns and Winchesters; as far as affiant knows and believes, there was no shooting done by the soldiers in post.

HOYT ROBINSON.

Subscribed and sworn to before me this 24th day of November, 1906.

E. J. BARBON, *Notary Public*.

My commission ex. July 20, 1906.

By Senator OVERMAN:

Q. You say you went down there to tell the soldiers that had been over in Matamoros on pass to come back to camp?—A. Yes, sir.

Q. Then at that time there had been soldiers in Matamoros?—A. Yes, sir; I don't know about that.

Q. You went there to tell them?—A. Yes, sir; I went there to tell them when they came across.

Q. You were sent there on that duty?—A. Yes, sir.

Q. And you remained how long?—A. Until 9 o'clock.

Q. And those soldiers in Matamoros had not returned then?—A. I had not seen them then.

Q. You stayed there and watched the ferryboat?—A. Yes, sir.

Q. And they had not returned at that time?—A. No, sir.

By Senator LODGE:

Q. Is that the only way of getting over from Matamoros?—A. Yes, sir.

Q. Not knowing where the road was located, how could you tell that those two shots seemed to be from that road?—A. Well, it was in that vicinity; in the vicinity of that road.

Q. You mean by that, in that direction, I suppose?—A. Yes, sir; because there was a swamp between there and the road.

Q. What?—A. A swamp of some kind.

Q. A swamp in there?—A. Yes, sir.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You have been up to Allison's saloon?—A. Yes, sir.

Q. And you know that at the point where it is located there is a country road coming in?—A. There is a road coming in.

Q. Coming in from that general direction?—A. Yes, sir.

By Senator LODGE:

Q. Do you know where that county road leads to—where it goes?

Senator FORAKER. It has been testified to that that goes to some place up there, the name of which I do not remember now.

The WITNESS. I don't know.

Senator WARNER. I would like to have inserted in the record at this point the affidavit of this witness which appears on page 169 of Senate Document No. 155.

The document referred to is as follows:

Fort Brown, *State of Texas*, ss:

Personally appeared before me, the undersigned authority, one Alexander Ash, a private of Company D, Twenty-fifth Infantry, who, being duly sworn according to law, deposes and says:

"About 12 o'clock midnight, August 13, 1906, I was on post No. 4, which extends around the quartermaster and commissary storehouses. The first unusual

thing that happened was two shots fired from somewhere beyond the hospital from where I was. I immediately hurried to that end of my post, and then a lot more shots were fired from the vicinity of the rear of barracks. I can not say positively where these shots were fired, but it sounded as if they came from that vicinity. I have no idea who did the shooting, citizens or soldiers. I heard nothing before this night that would lead me to believe that there was going to be any trouble. I have heard nothing since this night as to who did the firing or for what reason.

"Further deponent saith not.

"ALEXANDER ASH,
"Private, Company D, Twenty-fifth Infantry."

Subscribed and sworn to before me, at Fort Brown, Tex., this 19th day of August, 1906.

SAMUEL P. LYON,
Captain, Twenty-fifth Infantry,
Trial Officer, Summary Court.

(Witness excused.)

TESTIMONY OF JOSEPH ROGERS (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Tell us your name in full.—A. Joseph Rogers.

Q. Did you belong to the Twenty-fifth Infantry in August last?—

A. Yes, sir.

Q. What company?—A. Company C.

Q. Were you with your company at Fort Brown, at Brownsville, in August last?—A. Yes, sir.

Senator FORAKER. I want at this place to put in evidence the official record of this soldier as given by the War Department as found at pages 263 and 264 of Senate Document No. 155.

The record referred to is as follows:

JOSEPH ROGERS.

Enlisted July 10, 1900; was discharged as a private of Company C, Twenty-fifth Infantry, July 9, 1903, on expiration of term of enlistment; character good.

Reenlisted July 14, 1903; was discharged as a private of Company C, Twenty-fifth Infantry, July 13, 1906, on expiration of term of enlistment; character good.

Reenlisted July 16, 1906; was discharged without honor as a private of Company C, Twenty-fifth Infantry, November 23, 1906.

By Senator FORAKER:

Q. I see by this that you first enlisted in July, 1900.—A. Yes, sir.

Q. Did you serve continuously from that time until you were discharged in November last?—A. Yes, sir.

Q. Did you serve all that time in the same company?—A. Yes, sir.

Q. How many years did you serve altogether?—A. Six years.

Q. I see that you have on your first discharge "Character good;" on your second discharge "Character good," and on your third discharge "Without honor."—A. Yes, sir.

Q. Where were you enlisted?—A. In New York, sir.

Q. In the city of New York?—A. Yes, sir.

Q. Was that your home?—A. Yes, sir; for the time.

Q. Where were you born?—A. In the West Indies.

Q. What island?—A. Barbados.

Q. When did you come to this country?—A. In 1899.

Q. In 1899?—A. Yes, sir.

Q. Then you enlisted the next year?—A. Yes, sir.

Q. In the Army?—A. Yes, sir; and served there six years.

Q. Now, where were you the night of this firing, August 13?—A. I was on guard.

Q. Were you on post, or where were you, when the firing commenced?—A. At the guardhouse.

Q. What relief did you belong to?—A. The third.

Q. The third relief?—A. Yes, sir.

Q. Your relief was at the guardhouse at that time?—A. Yes, sir.

Q. Not on post?—A. No, sir.

Q. What were you doing when the firing commenced?—A. I was lying down.

Q. Were you asleep or awake?—A. No, sir; I was awake.

(Senator Scott here explained the map to the witness.)

Q. How did you happen to be awake at that hour of the night?—

A. I was relieved at 11 o'clock.

Q. What post were you on when you were on duty?—A. No. 3, sir.

Q. Which is No. 3?—A. It was in back of the officers' line.

Q. Back of the officers' quarters?—A. Yes, sir.

Senator Scott. That is here [indicating on map]?

The Witness. Yes, sir.

By Senator FORAKER:

Q. Did you go around the officers' quarters or just back of them?—

A. No, sir; both ways, in front and back.

Q. Clear around them?—A. Yes, sir.

Q. Going around them, did you keep those quarters to your left or to your right?—A. To the left.

Q. To the left?—A. Yes, sir.

Q. You say it was 11 o'clock when you were relieved?—A. Yes, sir.

Q. What did you do when you were relieved?—A. I went back to the guardhouse.

Q. What happened then; what did you do? That is all I want to know.—A. I was lying down in bed reading.

Q. Doing what?—A. Reading.

Q. Did you have a light in the guardhouse?—A. Yes, sir.

Q. What were you reading?—A. A novel.

Q. Can you tell us the name of it?—A. Not exactly.

Q. What?—A. I can't remember the name of it.

Q. You do not remember the name of it, but you remember that you were reading a novel?—A. Yes, sir.

Q. What happened?—A. Just about a quarter to 12, I expect it was; that is, when the sergeant told me to wake up—that is, to get up—it was a quarter to 12 then.

Q. Yes.—A. And I heard one or two shots. I did not know exactly what direction they were coming from, but then he told me to get up and to go and wake the officer of the day up.

Q. To go and wake the officer of the day?—A. Yes, sir.

Q. Had you heard some shots before he told you to get up?—A. No, sir. Just as I heard the shots he stepped over to me and told me to get up and go and wake the officer of the day, as I was knowing more about the officer of the day, simply because he was captain of

C Company, and I was the only man of C Company awake at the time, and he thought probably I was the best man to go, and he told me to go and wake him up.

Q. You say he shook you? What did he shake you for if you were awake?—A. I had my face turned to the wall, and he just tapped my back like that [indicating] and told me to get up.

Q. What did you do—did you get up?—A. Yes, sir.

Q. And did you go on the duty he assigned you to?—A. Yes, sir.

Q. What was that?—A. Waking the officer of the day.

Q. Who was the officer of the day?—A. Captain Macklin.

Q. Where was he supposed to be?—A. At his quarters.

Q. Where were his quarters?—A. I don't exactly know the number, but it was the last end of the barracks, next to the river—the Rio Grande.

Q. Down near—A. Yes, sir; down the last end of the barracks.

Q. Do you mean the last set in the barracks or the last set that was occupied?—A. The last set of officers' quarters. There was only one on the other end, and I don't know—just a little house on the other side.

Q. Did you go there to his quarters?—A. Yes, sir.

Q. What did you do?—A. I knocked and woke him up, and he said, "All right."

Q. Then what did you do?—A. I reported back to the guardhouse.

Q. State whether or not the firing was going on at this time, while you were going down there to awaken him.—A. Yes, sir; the firing was going on then.

Q. Where was the firing going on?—A. It sounded like it was out in town some place.

Q. Where, with respect to the barracks?—A. Well, as far as I could see, it was located about in between C and B; that is, between C and B coming up the road, right in a little alley there, some place.

Q. That is, do you mean it was over in town?—A. Yes, sir; in the town.

Q. As far as you could tell?—A. Yes, sir.

Q. Can you indicate on that map what direction you went to reach Captain Macklin's quarters?—A. Yes, sir.

Q. Did he get up or not?—A. I don't know if he got up, but he answered.

Q. He answered, "All right?"—A. Yes, sir.

Q. And then you went back and reported to the sergeant?—A. Yes, sir.

Q. Did Captain Macklin come or not?—A. No, sir; he did not.

Q. Did you have any talk with Captain Macklin afterwards, and if so, when, about waking him up?—A. The next morning.

Q. What did he say to you?—A. He asked me if I woke him up last night, and I told him, "Yes." He asked me what did he say. I told him he said, "All right." He told me, well, probably he thought he was dreaming, and he said he thought somebody awakened him, but he didn't know whether he was dreaming or what.

Q. Captain Macklin told you that the next morning?—A. Yes, sir.

Q. Where were you when he told you that?—A. At the guardhouse.

Q. How did he know, if you know, that you had been there to waken him?—A. The sergeant of the guard told him that I was the man he sent.

Q. Now, what did you discover when you went back, as to whether all the guard were present or not, if you know?—A. Well, I don't know if they were all present, but then they were supposed to be there.

Q. Did you miss anybody?—A. Yes, sir; I missed the men that was on post at the time.

Q. Nobody except the men that were out on post?—A. No, sir; not to my knowing.

Q. Sergeant Reid was there, was he?—A. Yes, sir.

Q. Did you see Corporal Wheeler?—A. Yes, sir.

Q. And what others did you see, if you can tell?—A. Why, Sergeant Reid, and Corporal Wheeler, and another corporal. There was one corporal away.

Q. Did you know what corporal was away?—A. Corporal Burdette.

Q. As to who the other corporal was, can you tell us?—A. Franklin.

Q. Corporal Franklin, of Company B?—A. Yes, sir.

Q. State whether he was there or not.—A. He was there at the guardhouse.

Q. Do you know how many men were there?—A. No, I don't exactly know; I never counted them.

Q. Did you hear the call to arms sounded?—A. Yes, sir; just as I was going across I heard the trumpet.

Q. As you were going down to Captain Macklin's?—A. Yes, sir.

Q. Did it sound after you got down to Captain Macklin's?—A. No, sir.

Q. When did it sound?—A. Just about when I got midway on the parade ground, going across.

Q. Going down toward Captain Macklin's?—A. Yes, sir; toward Captain Macklin's.

Q. Going to Captain Macklin's?—A. Yes, sir.

Q. That is to say, it sounded when you were about midway on the parade ground?—A. Yes, sir.

Q. You crossed the parade ground going down there, did you?—A. Yes, sir.

Q. Then what did you do after returning to the guardhouse?—A. Oh, the guard were all formed outside and waiting orders.

Q. Did you form in line with the rest of them?—A. Yes, sir.

Q. Who was in command of the guard?—A. Sergeant Reid.

Q. How long did you remain under arms?—A. I don't know, sir—under arms?

Q. Or up? I understood you to say that he ordered the guard to fall in, or something of that sort.—A. He didn't exactly order them, but it was their duty whether or no to fall in.

Q. Did they fall in?—A. Yes, sir.

Q. Was that when they first got awake, or when you got back?—A. I don't know; when I got back they were all in line.

Q. They were in line when you got back?—A. Yes, sir.

Q. That is what I wanted to get at. Now, how long did they stay in line?—A. Oh, I don't exactly know.

Q. What did you do for the rest of the night?—A. After they turned in I went into the guardhouse, after the line was broke, and of course I went to sleep the rest of the night.

Q. Did you go on duty again that night?—A. That morning.

Q. What time did you go on duty?—A. The next morning at 7 o'clock.

Q. How did it happen you did not go on duty again that night?—A. Oh, I had been on patrol some of the night, and then had to come in and go on post, too.

Q. When were you on patrol?—A. At 8 o'clock.

Q. In the night?—A. Yes, sir.

Q. Were you excused from duty on post for that reason?—A. There was some one else, I guess, walking the post, and I had to make the time when I came in.

Q. What time did you come off duty from the officers' quarters, post No. 3?—A. At 11 o'clock, sir.

Q. Didn't you go on duty again until 7 o'clock the next morning?—A. No, sir.

Q. You remained at the guardhouse all that time?—A. Yes, sir.

Q. Senator Scott wishes me to ask you why you did not go on again four hours later?—A. Well, the hours was not regular.

Q. The hours were not regular?—A. No, sir.

Q. Why were they not regular?—A. On account of this patrol business, that split the time up—that is, some of the guards—some of them was walking even hours and some was not.

Q. Some went on even and some did not?—A. Some was not.

Q. Was it different as to different guards that night, some going on regularly and others not?—A. Why, yes, sir; I guess it was, because I was not going on even hours.

Q. You did what you were told to do?—A. Yes, sir.

Q. And the others had to do the same?—A. I guess so.

Q. You are certain, though, that you did not go on duty until 7 o'clock the next morning?—A. It must have been 7; it was right after breakfast, and we had breakfast at half past 6.

Q. What happened at the guardhouse the next morning—did you get up for reveille?—A. Yes, sir.

Q. State whether the officer of the day came there.—A. Well, I don't know whether the officer of the day came around then or not, because I did not see him.

Q. You did not see him at the guardhouse at all?—A. Not at reveille.

Q. Did you see him at any time?—A. Yes, sir; he was receiving reports there at his quarters. He was standing on the sidewalk.

Q. State whether or not there was any inspection of the guns at the guardhouse the next morning.—A. Yes, sir; he inspected the guns.

Q. What time was that done?—A. I don't know exactly what time it was; I never watched the time.

Q. Were you there when the guns were inspected?—A. Yes, sir; I was there.

Q. Did you fall in with the other men?—A. Yes, sir.

Q. Was your gun inspected?—A. Yes, sir.

Q. By whom?—A. Captain Macklin.

Q. Were the other guards' guns inspected at the same time?—A. Yes, sir.

Q. What was the result of that inspection?—A. To find out the guns that were shot.

Q. That was the purpose of it, but what was the result? Did they find any guns that had been fired?—A. I don't know, sir. I never did hear anything about it.

Q. Did he pass the guns or reject any of them, or what did he do about it?—A. He just inspected them and handed them back; that is all he did.

Q. Did he inspect your gun?—A. Yes, sir.

Q. In what way did he inspect it?—A. He looked in the barrel, and then he took the bolt and looked at the pin to see if the gun had been fired at any time.

Q. What was the case? Was it handed back to you or not?—A. Yes, sir; it was handed back.

Q. Did he make any complaint about your gun?—A. No, sir.

Q. Well, did he do that same way with all of them, so far as you know?—A. Yes, sir; all that was there.

Q. Did you have anything to do with that shooting that night?—A. No, sir.

Q. Were you away from the guardhouse at all except when you were on post?—A. No, sir; we were not allowed away from the guardhouse.

Q. You were not allowed away; but did you go away without being allowed to go away?—A. No, sir.

Q. Were you out in town at all that night?—A. Yes, sir.

Q. When?—A. When the patrol was ordered out.

Q. You went out with the patrol?—A. Yes, sir.

Q. Where did you go?—A. Why, I went right out the main street; I don't know the name of it.

Q. Out through the gate?—A. Yes, sir.

Q. Down the main street?—A. Yes, sir.

Q. What hour was that?—A. Eight o'clock.

Q. How long were you gone?—A. I guess about three-quarters of an hour.

Q. Who was with you, if anybody?—A. There was three other men and Corporal Franklin.

Q. You belonged to Corporal Franklin's relief, did you?—A. Yes, sir.

Q. And he took his relief and went to patrol the town?—A. Yes, sir.

Q. Where did you go—how far down that main street?—A. We walked, turned across by a hotel; some hotel, I don't know the name.

Q. Is that the Miller Hotel?—A. Yes, sir; I think that is the name.

Q. Where did you go when you turned at the Miller Hotel?—A. Then we walked a block out farther and then turned down another block, and then came back in, as we were ordered to make the round in there. I suppose the soldiers were to be found up in that vicinity, and all that we seen we were to tell them to come in.

Q. Did you find any soldiers?—A. No, sir.

Q. Did not find any down in town at that time?—A. No, sir; there had been a patrol up the other street, and I guess by the time we got around there the other patrol had met them all.

Q. Another patrol was out at the same time?—A. There were two patrols; yes, sir.

Q. Were you out on patrol at any other time that night?—A. No, sir.

Q. Were you downtown about 12 o'clock that night?—A. No, sir.

Q. Weren't you down with your gun helping shoot up the town, about midnight?—A. No, sir.

Q. You were not there?—A. No, sir.

Q. Do you know of anybody who was there?—A. No, sir.

Q. Have you any knowledge that leads you to suspect that anybody in your company was there?—A. No, sir.

Q. Or in either of the other companies?—A. I don't know anything about the other companies.

Q. Were you one of the twelve men who were arrested?—A. No, sir.

Q. You were not arrested?—A. No, sir.

Q. Well, have you refused to tell anybody all you know about this matter at any time?—A. Why, I have told all that I knew about it—that is the same thing I am talking here.

Q. That is, you have told everybody all you knew about it?—A. Anybody that ever asked me anything about it.

Q. I want to put in evidence the statement you made to Colonel Lovering, it appears. I will read it:

Q. Where were you on August 13, 1906, when shooting commenced?—A. I was at the guardhouse.

Q. Asleep or awake?—A. Asleep, sir.

You tell us now you were awake and reading a novel. How does it come, then, you said you were asleep?—A. No, sir; I was not asleep. That probably might have been a mistake, because I could not have went to sleep that quick. At least they started about 11 o'clock to relieve me, and when they got around it must have been about half past 11. They take their time about coming around to relieve the men on post, you know.

Q. Others have testified that they were relieved at half past 10.—

A. The others?

Q. Some others have.—A. Well, I guess they were; I don't know anything about it.

Q. You were relieved at 11 o'clock?—A. Yes, sir.

Q. Is this a mistake if they have you down here saying that you were asleep?—A. I guess so. I never told anybody I was asleep.

Q. Let me finish reading the statement. First, who took this statement of yours?—A. I don't know, sir. I gave about a hundred of them. I don't know who took it.

Q. Colonel Lovering, I suppose, took this statement. Do you remember Colonel Lovering?—A. No, sir—oh, yes, sir; at Fort Reno; yes, sir.

Q. Yes; at Fort Reno.—A. Yes, sir.

Q. How was that taken—by questions and answers, was it not?—A. Yes, sir; but he never asked me about whether I was asleep or awake. So, therefore, I could not tell him anything like that.

Q. This record shows that he asked you whether you were asleep, and you answered that you were asleep. Then it continues:

Q. Who did you first see when you awoke?—A. The sergeant of the guard.

Q. Name him.—A. Sergeant Reid.

Q. Was the shooting still going on?—A. Yes, sir.

Q. Anybody ever abuse you in Brownsville?—A. No, sir.

Q. Any man ever tell you that he had been abused in Brownsville?—A. Yes, sir.

Q. Who?—A. A couple of the men that is in the guardhouse now—Oscar Reed and James Newton.

Q. Is that all true except the statement about your being asleep?—A. Yes; all that is true.

Q. Except the statement about your being asleep?—A. Yes, sir.

Q. Was this testimony written out and read over to you after you gave it?—A. No, sir.

Senator FORAKER. It is not signed.

Senator LODGE. It is stated that it is his sworn testimony.

Senator FORAKER. I know that is stated.

By the CHAIRMAN:

Q. About this relieving of the guard—does the corporal of the guard start with men enough to make relief of all the posts and go to each post, post 1 and post 2, for instance, leaving the new man and taking the old one off, and then come in with the old ones as they come off, all together? Is that the way they relieve the guard?—A. Yes, sir.

Q. In every relief it is relieved in that way?—A. Yes, sir.

Q. Starting out with men enough to go and make the entire relief, and go around and bring the old ones all in?—A. That was when they were relieved on even hours.

Q. When you were relieved at any time?—A. No, sir; not at any time, because some of the men were walking just an hour and some were walking two hours.

Q. How did they relieve them in that case? Did they start out with one man and go to some one post and bring in the man?—A. If there was two men to be relieved they would take two men and take them up there and bring in the two old men.

Q. Did they go back to the guardhouse with the men who were taken off and then make different trips from the guardhouse out, instead of making one round trip?—A. No, sir; they can't make any other trips, only just go to the post and relieve them and come back.

Q. Do you mean they start from the guardhouse and go to the post and relieve them and come back to the guardhouse before they go to another post?—A. Oh, no, sir; if there are two posts to be relieved, why they take the two men, one on one and one on the other.

Q. As a matter of fact, how many posts were there on the night in question?—A. There were four, I think; yes, sir; there were four.

Q. Those were relieved by the corporal taking four men and making the rounds?—A. Yes, sir; at sometimes they were.

Q. Leaving four new ones and bringing in the four old ones?—A. Yes, sir.

Q. You say sometimes they were. Was it not done all the time that way?—A. No, sir; not all the time.

Q. How was it done differently, then?—A. That is when the time was broken up; if another man had to walk in that place, that had been up patrolling, then we had to come in and go and relieve them, just as they came in, you see—the men that walked overtime.

Q. Did this occur in the early part of the night, or only after the shooting?—A. Why, it started just from 8 o'clock, because on account of the patrol going out and staying out, why it caused the time to be broken up with the men that went out. So therefore we had to make their time up when we came in, and then they put the whole time in on the morning.

Q. Were the patrolmen all taken from the guard?—A. Yes, sir.

Q. The patrol and the posts were both furnished altogether from the guard?—A. From the guard.

Q. From those on guard for the twenty-four hours?—A. Yes, sir.

Q. How many were on guard for the twenty-four hours?—A. Why, there is supposed to be—four threes are twelve—twelve privates and four noncommissioned officers.

Q. That was your guard all together for that twenty-four hours?—A. Yes, sir.

Q. They went on duty at guard mount, about 9 or 10 o'clock in the morning?—A. I don't know; I guess it was 9.

Q. That was your usual time, was it?—A. Yes, sir.

Q. Of the 13th?—A. Yes, sir.

Q. And you came off the morning of the 14th at about the same time?—A. No, sir; the confusion stopped the guard from going on at the same time the next morning.

Q. How was it handled? The confusion arose about 12 o'clock; how was the guard arranged from that time on?—A. Then the companies were taking turn about on these cossack posts. Major Penrose deployed a cossack guard all around the post.

Q. That is, you took on another guard aside from the regular guard?—A. Yes, sir; an outside guard, and they were deployed around the garrison from the gate up to the magazine.

Q. How long does it take to make a round when you are not disturbed from the time they leave the guardhouse to relieve the four posts and get back again—about how much time?—A. At the regular guard?

Q. Yes; the regular guard.—A. I guess about half an hour.

Q. Suppose No. 1 is relieved at 10 o'clock, the man on No. 4 might be relieved, say, at quarter past 10 or something like that?—A. Yes, sir; just depending on the distance they have got to go. It is not always the same distance.

Q. When do they start from the guardhouse, on the hour or the half hour?—A. No, sir; right at the hour, sometimes.

Q. Didn't they always, in ordinary work, start at regular times, so that the on duty and off duty might be regular?—A. Well, the regular time, whether it is half past or on the hour, they have got to start on a regular time, and then when the time is broken up that way they have got to take the minutes accordingly, so that every man can get as near the time as possible; get it even as near as possible.

By Senator FORAKER:

Q. The morning that you went on guard, the 13th, had you not been on a practice march? On this Monday morning, the 13th, do you remember whether the battalion was out on a practice march?—

A. I don't know, sir; the battalion never went on a practice march; no, sir. They never sent the battalion on a practice march together. They have sent always one company by itself, or two, leaving one company in the post.

Q. Went by separate companies?—A. Sometimes, and sometimes two together.

Q. You yourself were not out on any practice march that morning?—A. No, sir; not that I can remember of. Possibly I might have been, but I can't remember.

Q. You don't remember about it?—A. I have been doing guard so often that I just could not remember whether I was on it or not.

By Senator WARNER:

Q. I understand the affidavit that has been read to you by Senator Foraker is correct in every respect excepting where you state in that affidavit that you were asleep?—A. No, sir; I was never asked that question about the sleeping business, and therefore I could not answer it, because I was not asleep.

Q. I think in your answer to Senator Foraker (in that I may be mistaken) you gave as a reason why you were awake, because you came in at 11 o'clock, off guard, and were reading a novel?—A. Yes, sir; I was reading a novel; there was no one there to read it to me.

Q. Was that the time you got in?—A. I was relieved at 11 o'clock, but I might not have gotten in until five or ten or fifteen minutes after, I guess.

Q. It was about 11 o'clock?—A. Yes, sir; just about that time.

Q. And you also said that he came and asked you— A. He came and knocked me, I said, because I had my face turned to the wall like that, and he came and pushed me and said, "Go and wake the officer of the day," like that.

Q. And you got up—you had your clothes on, being on guard?—A. Yes, sir.

Q. Did you hear any shooting then?—A. Yes, sir.

Q. Where was the shooting you heard then?—A. Oh, it was on the right-hand side; I don't know the direction; that is to say, coming from toward No. 2, or some place around there.

Q. From post No. 2?—A. Yes, sir.

Q. And post No. 2 was around the barracks?—A. Yes, sir.

Q. So it came from the direction of the barracks?—A. Yes, sir.

Q. How was that shooting?—A. Well, I don't exactly know.

Q. That is, by volley or shooting at will, or how?—A. No, sir; it was just irregular, one after the other, and just like a pistol and something else—a Winchester or something else might be shooting. First a loud sound and then a low one, and all like that.

Q. A good many shots together, right along fast?—A. They was right after each other.

Q. Rapid firing?—A. Yes, sir.

Q. About how many shots?—A. Well, I could not exactly say.

Q. Can you give an idea of how many shots you heard before you left the guardhouse?—A. Oh, I heard two shots before I left the guardhouse.

Q. Is that all?—A. Yes, sir; that is all.

Q. Where were they?—A. They came from the same direction—that is, I heard them back there.

Q. Came from the direction of the barracks?—A. Yes, sir.

Q. Well?—A. And then while I was coming back, going back to the guardhouse, then I heard the shooting that seemed as though it was in between—just in between the interval of B and C down the alley some place near by there.

Q. That alley that is between Washington and Elizabeth streets?—A. Yes, sir; I think a little ways down there.

Q. It seemed to be down that alley?—A. Yes, sir.

Q. When was it you heard the call to arms sounded—on your return from having called Captain Macklin?—A. No, sir; when I was going.

Q. And you had got about halfway down, you say?—A. Yes, sir.

Q. What was the distance from the guardhouse to Captain Macklin's? He was at the lower officers' quarters, down nearest the Rio Grande there, that double building. What was the distance—about how many hundred yards?—A. About 500 yards, I should say; between four and five hundred.

Q. And you had gotten about half that distance, or two or three hundred yards, when you heard the call to arms?—A. Yes, sir; about half that distance, because just as I got by Major Penrose at the guardhouse he said, "Sound the call to arms."

Q. And you went down and called Captain Macklin?—A. Yes, sir.

Q. And he asked you what was the matter?—A. No, sir; he never asked me what was the matter.

Q. He replied to you?—A. Yes, sir; he said, "All right."

Q. What did you say to him?—A. I told him the sergeant of the guard told him to report to the guardhouse; that he must come to the guardhouse right away.

Q. And he said, "All right?"—A. He said, "All right."

Q. You knew where Captain Macklin usually slept?—A. Yes, sir.

Q. Did you find him that night in the room where he usually slept?—A. No; I did not go to his room. I knocked on the door below his room. His room was right up above where I knocked. He could easily hear.

Q. You knew where that room was?—A. Yes, sir.

Q. So you knocked in that usual place?—A. Yes, sir.

Q. And he answered from the room where he usually slept?—A. Yes, sir.

Q. You are quite clear about that?—A. Yes, sir; he answered.

Q. And the next morning Captain Macklin spoke about that to you?—A. Yes, sir.

Q. What did he say to you the next morning?—A. He asked me if I was over at his house last night. I told him yes. He said did I wake him up, and I told him yes. He said, what did he say, and I said he said "All right." He said probably he was dreaming. He

did not know whether he was dreaming or asleep, only he thought he heard somebody call him.

Q. Was there anyone else came there to wake up Captain Macklin?—A. No, sir; I was not present. I heard that some one, some of the men, had went there previous to me, but I don't know.

Q. And they could not find him?—A. I don't know whether they found him or not.

Q. You heard afterwards that he was not sleeping at all in his bed, didn't you?—A. No, sir; I never heard anything about it.

Q. Didn't know anything about that?—A. No, sir. That was his house that I went to.

Q. I think there is no question about it that you stated that the captain said: "All right," when you told him you had been ordered to come over there and call him up to report?—A. Yes, sir.

Q. You knew his voice?—A. Yes, sir.

Q. You went back to the guardhouse?—A. Yes, sir.

Q. Was the firing still going on?—A. Yes, sir.

Q. And after you got back to the guardhouse?—A. The guard was formed.

Q. The guard was formed after you got back to the guardhouse?—A. I found the guard formed.

Q. You found it formed there?—A. Yes, sir.

Q. What was done then?—A. I joined the guard.

Q. How many were in the guard?—A. I don't know, sir.

Q. You don't know who were absent?—A. No, sir.

Q. Who was sergeant of the guard?—A. Sergeant Reid.

Q. Any other sergeant?—A. No, sir.

Q. Did you go to the barracks at all?—A. No, sir.

Q. The next morning your guns were inspected by Captain Macklin?—A. Yes, sir.

Q. Were you at the guardhouse when they were inspected?—A. Yes, sir.

Q. Now, what did he do to inspect your guns?—A. Why, first, we had to open the chambers, and then he took them and looked down the barrel, and looked at the bolt and the pin.

Q. That is the usual way of inspecting, is it?—A. Yes, sir.

Q. And passed the gun back to you?—A. Yes, sir.

Q. Was there anything else done there?—A. No, sir; not as I know of.

Q. You are clear about that?—A. Yes, sir.

Q. Isn't it a fact that Captain Macklin had a brass rod there and a rag?—A. At the guardhouse?

Q. Yes.—A. No, sir; not to my knowing.

Q. You saw him, didn't you?—A. I saw him; but I didn't see any rod with him; no, sir; I didn't see him with any.

Q. You did not see it? He took your gun and inspected it as you have stated, and that is the way the other guns were inspected?—A. Yes, sir.

Q. You were on the patrol that night?—A. Yes, sir; at 8 o'clock.

Q. Did not find any soldiers at all?—A. No, sir.

Q. Did you go down to the landing, to the wharf or that part?—A. No, sir; there was one man went to the landing. He was sent there before 8 o'clock, before retreat.

Q. But you did not go there?—A. No, sir; there was no orders to go to that part of the town. We went around in one direction and another one went another way, and we all met back at the guard-house.

Q. The sergeant of the guard told you to go and wake the officer of the day?—A. Yes, sir.

Q. Was it the habit of the officer of the day to go to sleep about that time?—A. Why, he would usually go to his quarters after 11 o'clock, sir. Whether he goes to sleep or not I don't know; but they are in the house—supposed to be.

Q. Supposed to be in the house? You knew that evening there was some trouble, did you not, when the patrols were sent out to bring the soldiers in?—A. I didn't know.

Q. Hadn't you heard of it?—A. No, sir; I had never heard anything.

Q. Never had heard of any trouble between the soldiers and citizens of Brownsville?—A. No, sir.

Q. The sergeant of your company gave you no notice of the reason why the patrols were being sent out?—A. No, sir; I never heard any order at the company, because I was not there at the company only at meal hours. He never said anything to me, at least. That is all I heard of it—that is, the officer of the day came over and told the sergeant of the guard to send out two patrols at 8 o'clock and have the men all come in, because their passes just extended to 8 o'clock and no further. They wanted to know what was the matter, but I guess they were all like me. I never knew what was the matter until I heard this commotion that night; that is all.

Q. After this did you hear this shooting at Brownsville talked of there very much among the soldiers?—A. After the shooting?

Q. Yes, sir.—A. No, sir; we were not allowed out in the town.

Q. Did you talk of it among yourselves?—A. Why, yes; just the same as everybody else. We wanted to know who did it and all like that.

Q. You knew that it was charged that some of the soldiers had done the shooting up of the town?—A. Yes, sir; it was charged.

Q. That some of the ammunition had been found, for Springfield rifles, down in the town?—A. I don't know as there was any ammunition found.

Q. It has been charged—it was so stated?—A. Yes, sir. I heard it that some shells had been found, but then there was some one else said they were not cartridges that we had been shooting then at the time in that rifle, so they did not know whether—

Q. Who said that?—A. I don't know, sir; some soldier or other, I don't know who. I just happened to hear him talking.

Q. When was that?—A. That was the next day, I heard them say that they had found some empty shells.

Q. And one of the soldiers said that it was not the kind of shells you were using then?—A. One of the teamster soldiers said that it was not the same kind of a cartridge that they were shooting, that they had found down there, that we usually shot in our guns.

Q. What teamster soldier was that?—A. I don't know, sir.

Q. What kind did he say that was found?—A. He said it was the old Krag-Jørgensen shells that they had found, that had been all *rusted*, and so he said they could not do anything about that; he said

they could not prove anything about it, because that was not the same ammunition that they were using here now.

Q. Whom did he tell that they could not prove anything? How did that come?—A. I don't know, sir.

Q. Were you discussing whether they could prove it on the soldiers or not?—A. No, sir; I had a prisoner at the time, and I was going around working, so I heard them talking at the corral.

Q. Well, I know, but the teamster was talking to the soldiers, was he?—A. No, sir; just among the teamsters themselves. There was a Mexican, the corral master, he told a fellow; he said, "I see where they found some shells this morning in the town," and another fellow said, "Yes, but it ain't the same kind; it isn't the same kind of ammunition that they use in these guns." He said, "They belonged to the Krag-Jørgensen."

Q. Did you tell that to the soldiers?—A. No, sir.

Q. You never told it to your comrades?—A. No, sir; I just merely heard it. I didn't know what it was, whether they knew anything about it or not.

Q. But you never mentioned it to them?—A. No, sir.

Q. This firing that you heard seemed to be down in the rear of the barracks?—A. Yes, sir.

Q. Did you hear firing in any other direction?—A. No, sir; I did not hear firing in any other place.

Q. Didn't you hear some firing up beyond the hospital, up toward the county road? You know where that county road is?—A. Yes, sir; I know that road.

Q. Did you hear any firing up that way?—A. No, sir.

Q. No firing at all?—A. No, sir.

By Senator OVERMAN:

Q. When was it that Reid and Newton told you they had been abused out in town? Was that before or after the shooting?—A. I guess it was before; I don't know anything about that either. That was before the shooting, I think.

Q. Both talking to you together or separately?—A. They never had any talk with me. I just heard the talking.

Q. To whom were they talking?—A. I was sitting congregated in a company.

Q. How many in the company?—A. I don't know, sir.

Q. Give an estimate. Was there a half a dozen or a dozen?—A. You mean that were talking at the same time?

Q. You said they were talking to a crowd—how many?—A. Oh, well, I don't know the crowd exactly.

Q. I don't want you to give their names. I want to get an estimate of the number.—A. Probably eight or nine; something like that.

Q. Eight or nine?—A. Yes, sir.

Q. Where was that?—A. That was in the quarters on the porch.

Q. In C quarters?—A. Yes, sir.

Q. Did they seem to be pretty indignant over it?—A. Oh, I don't know. I happened to be coming in that night and heard them talking.

Q. What night was that?—A. I don't know exactly the night.

Q. How long before the shooting?—A. I could not tell that; I don't know.

Q. Did not find any down in town at that time?—A. No, sir; there had been a patrol up the other street, and I guess by the time we got around there the other patrol had met them all.

Q. Another patrol was out at the same time?—A. There were two patrols; yes, sir.

Q. Were you out on patrol at any other time that night?—A. No, sir.

Q. Were you downtown about 12 o'clock that night?—A. No, sir.

Q. Weren't you down with your gun helping shoot up the town, about midnight?—A. No, sir.

Q. You were not there?—A. No, sir.

Q. Do you know of anybody who was there?—A. No, sir.

Q. Have you any knowledge that leads you to suspect that anybody in your company was there?—A. No, sir.

Q. Or in either of the other companies?—A. I don't know anything about the other companies.

Q. Were you one of the twelve men who were arrested?—A. No, sir.

Q. You were not arrested?—A. No, sir.

Q. Well, have you refused to tell anybody all you know about this matter at any time?—A. Why, I have told all that I knew about it—that is the same thing I am talking here.

Q. That is, you have told everybody all you knew about it?—A. Anybody that ever asked me anything about it.

Q. I want to put in evidence the statement you made to Colonel Lovering, it appears. I will read it:

Q. Where were you on August 13, 1906, when shooting commenced?—A. I was at the guardhouse.

Q. Asleep or awake?—A. Asleep, sir.

You tell us now you were awake and reading a novel. How does it come, then, you said you were asleep?—A. No, sir; I was not asleep. That probably might have been a mistake, because I could not have went to sleep that quick. At least they started about 11 o'clock to relieve me, and when they got around it must have been about half past 11. They take their time about coming around to relieve the men on post, you know.

Q. Others have testified that they were relieved at half past 10.—A. The others?

Q. Some others have.—A. Well, I guess they were; I don't know anything about it.

Q. You were relieved at 11 o'clock?—A. Yes, sir.

Q. Is this a mistake if they have you down here saying that you were asleep?—A. I guess so. I never told anybody I was asleep.

Q. Let me finish reading the statement. First, who took this statement of yours?—A. I don't know, sir. I gave about a hundred of them. I don't know who took it.

Q. Colonel Lovering, I suppose, took this statement. Do you remember Colonel Lovering?—A. No, sir—oh, yes, sir; at Fort Reno; yes, sir.

Q. Yes; at Fort Reno.—A. Yes, sir.

Q. How was that taken—by questions and answers, was it not?—A. Yes, sir; but he never asked me about whether I was asleep or awake. So, therefore, I could not tell him anything like that.

Q. This record shows that he asked you whether you were asleep, and you answered that you were asleep. Then it continues:

Q. Who did you first see when you awoke?—A. The sergeant of the guard.

Q. Name him.—A. Sergeant Reid.

Q. Was the shooting still going on?—A. Yes, sir.

Q. Anybody ever abuse you in Brownsville?—A. No, sir.

Q. Any man ever tell you that he had been abused in Brownsville?—A. Yes, sir.

Q. Who?—A. A couple of the men that is in the guardhouse now—Oscar Reed and James Newton.

Q. Is that all true except the statement about your being asleep?—A. Yes; all that is true.

Q. Except the statement about your being asleep?—A. Yes, sir.

Q. Was this testimony written out and read over to you after you gave it?—A. No, sir.

Senator FORAKER. It is not signed.

Senator LODGE. It is stated that it is his sworn testimony.

Senator FORAKER. I know that is stated.

By the CHAIRMAN:

Q. About this relieving of the guard—does the corporal of the guard start with men enough to make relief of all the posts and go to each post, post 1 and post 2, for instance, leaving the new man and taking the old one off, and then come in with the old ones as they come off, all together? Is that the way they relieve the guard?—A. Yes, sir.

Q. In every relief it is relieved in that way?—A. Yes, sir.

Q. Starting out with men enough to go and make the entire relief, and go around and bring the old ones all in?—A. That was when they were relieved on even hours.

Q. When you were relieved at any time?—A. No, sir; not at any time, because some of the men were walking just an hour and some were walking two hours.

Q. How did they relieve them in that case? Did they start out with one man and go to some one post and bring in the man?—A. If there was two men to be relieved they would take two men and take them up there and bring in the two old men.

Q. Did they go back to the guardhouse with the men who were taken off and then make different trips from the guardhouse out, instead of making one round trip?—A. No, sir; they can't make any other trips, only just go to the post and relieve them and come back.

Q. Do you mean they start from the guardhouse and go to the post and relieve them and come back to the guardhouse before they go to another post?—A. Oh, no, sir; if there are two posts to be relieved, why they take the two men, one on one and one on the other.

Q. As a matter of fact, how many posts were there on the night in question?—A. There were four, I think; yes, sir; there were four.

Q. Those were relieved by the corporal taking four men and making the rounds?—A. Yes, sir; at sometimes they were.

Q. Leaving four new ones and bringing in the four old ones?—A. Yes, sir.

Q. You say sometimes they were. Was it not done all the time that way?—A. No, sir; not all the time.

Q. One day, two days, or three days?—A. Oh, probably it might have been; it looked as though it was a week before the shooting, a week or eight days, something of that kind, when this man Newton got hit, because that night just as I came in I saw him standing on the porch with his head bandaged, and asked him what was the matter, and everybody was asking him the same thing. He said, "Why, a fellow knocked me in the head in town," and we asked him if he went and reported it to Captain Macklin, and he said, "Yes;" that was all.

Q. Did he make any threats against the people of the town?—A. I don't know, sir. I didn't even know the man's name that struck him.

Q. Well, I say, that was Newton who was talking?—A. Yes, sir.

Q. Did he make any threats against the people of the town, or did any of the soldiers?—A. No, sir; not to my knowing.

Q. There was a great crowd congregated around him, was there?—A. Yes, sir; they were all talking.

Q. When was it this other man, Reed, said anything?—A. I don't know anything about that. I never heard anything at all about that until we got up to Fort Reno, and then I heard it said.

Q. You say in this affidavit—

Did any man ever tell you he had been abused in Brownsville?—A. Yes, sir.

A. I told him that after I got up there. He asked me if I knew of anybody that ever got in any trouble down there, and I hold him yes.

Q. Your answer was—

A couple of the men that is in the guardhouse now.

Where was that?—A. That was at Sam Houston.

Q. Was it before the shooting that Newton was telling you about his troubles or after the shooting?—A. Before the shooting.

Q. And when was it that Reed told you?—A. He never told me. I just heard the men as they were talking in the quarters a little before this colonel got there about how many fellows got hurt around there, or something of the kind, so then they mentioned Reed getting pushed off in the river, and I said, "Why, did he get hurt, too?" and they said, "Yes." So, then, they was the only two men that I knew anything about, as I never had been inquisitive in other people's business. Then when I went to the colonel this morning he asked me about if I had heard this thing, and I told him yes. That was the only two men I knew anything about.

By Senator FOSTER:

Q. You were reading a novel that night, were you?—A. Yes, sir.

Q. Lying with your face to the wall?—A. Yes, sir.

Q. What kind of lights did they have in that room that night?—

A. Why, an oil lamp usually burns in the guardhouse.

Q. A hanging lamp or on a table?—A. Yes, sir; a hanging lamp. One was hanging and one was on the table—that is, if I can remember it. I am sure there was on the table, and I think there was one hanging, but I can't remember exactly if it was lit or not, but there was one.

Q. Is it usual for the soldiers to read after retiring?—A. Why, yes; usually the guards that come in.

Q. That was a usual practice of yours, then, to read?—A. The guard usually may read when they don't go to sleep right away; read till they fall to sleep sometimes.

Q. You have no objection to stating what was the name of that novel?—A. Why, I don't know, sir. I just happened to pick it up. There was all kinds of books in the guardhouse at all times. I just happened to pick it up and got to reading; that is all.

Q. You can't remember the story at all?—A. No, sir.

Q. Nor the name of the book?—A. No, sir; I can't remember anything.

Q. You were interested in the book, though?—A. No, sir; I am not interested in anything I am reading. I don't pay much attention.

Q. You had not heard of the shots fired that night, had you, until the sergeant called your attention?—A. Oh, yes; I heard the shots.

Q. You heard the shots while you were reading?—A. Yes, sir; I heard, naturally. If you was lying down on a still night you would hear anything of the same kind.

Q. When you heard these shots down there did they excite you any or did you keep on reading?—A. No, sir; just as I heard the shots, why, I stopped and listened, and I had the book like that and my face turned that way [illustrating], and just about the time I was listening, why my mind and my eyes was off the book, and I was just listening like that, and when the second shot was fired he came and touched me like that, and he said, "Go wake the officer of the day right away and tell him to come to the guardhouse."

Q. Your attention was taken from the book when you heard the shot?—A. Yes, sir.

Q. But you said nothing to the officer of the day about it, or the officer in charge of the guardhouse that night, did you; did not mention it to him?—A. No, sir.

Q. You just laid down, holding your book up in your hand, and then the officer came in and shook you?—A. Yes, sir. He was not very far from me. He was over there in a chair, I think, or some place. He was right on the opposite side.

Q. When he shook you, did you tell him you had heard the firing?—A. No, sir; I did not say anything to him. I was just waiting for the order. He seen where I was the first man awake, and he just came and touched me and told me to go and get the officer of the day; go wake him up and tell him to come to the guardhouse.

Q. Did you hear the call to arms that night?—A. Yes, sir.

Q. Where were you when you first heard the call to arms?—A. I was about midway of the parade ground, going to Captain Macklin's house.

Q. Where did the call sound from?—A. From the guardhouse.

Q. Did you hear any other call to arms from the barracks?—A. No, sir; I don't think I did.

Q. Then you walked from the guardhouse across the parade ground to the officers' barracks, where Captain Macklin was staying?—A. Yes, sir.

Q. Did you hear any shots fired during the time you were walking from the guardhouse to Captain Macklin's quarters?—A. Yes, sir; they were shooting all the time.

Q. Was that outside or inside of the barracks?—A. I can't tell

you exactly whether it was inside or outside, because it was dark; but it seemed as though it was outside of the wall.

Q. Outside of the barracks?—A. Yes, sir.

Q. Did you hear any shots from the inside of the barracks?—A. Well, I don't know. You can't very well tell anything like that on a dark night, and then I was about 250 yards away from where the firing was supposed to be.

Q. Where was the firing supposed to be?—A. Supposed to be outside of the wall, as I understood.

Q. Could you not tell, walking across the parade ground, whether there were any shots fired near barracks B, C, or D?—A. No, sir; you can't tell that, walking on the parade ground, because there is the barracks. First the trees are in front of you, and then the barracks, and then if the shooting was outside of the wall there was no way for me to see it.

Q. If it were inside the wall, if there had been any shots fired down there from Company B's barracks that night, would you have heard them in going to or returning from Captain Macklin's quarters?—A. Why, yes; I could have heard them coming back.

Q. Couldn't you have heard them going?—A. No, sir; I could not tell. I was pretty speedy when I was going to the quarters at the time, and then I was not paying any attention—only going to the officer of the day, that is all—any more than hearing the shooting at the time.

Q. Did you hear three shots within the barracks walls that night?—A. No, sir; I don't know—I can't say I heard any in or outside, because I was not near enough to hear whether they was on the outside or inside.

Q. So you can't tell, then, whether the shooting was from the inside or outside of the barracks? Is that what you want us to understand?—A. I say by the sound of it, it sounded as though it was on the outside.

Q. When did you meet Major Penrose?—A. I did not exactly meet him. Just as I was crossing—just as I got there, why, I went in behind him, in the rear of him. He had just come out of his quarters.

Q. Just as you got where?—A. Why, just about midway, about 20 yards from his quarters, I crossed him in the rear of him, as I was going toward Captain Macklin's, and he was coming down the parade ground.

Q. Were you going to or returning from Captain Macklin's quarters?—A. I was going to Captain Macklin's then.

Q. You were going to Captain Macklin's quarters when you met Major Penrose?—A. Yes, sir.

Q. Had the call to arms been sounded then?—A. No, sir; he was hollering to them to sound the call to arms, and just about his second holler they started to sound it.

Q. Just about the time he called the second time the call to arms was sounded?—A. Yes, sir.

Q. And that call to arms was sounded from the guardhouse?—A. Yes, sir.

Q. Did you hear that any of the men of your battalion or any men of your company were charged with having been out in town that night, engaged in this shooting?—A. No, sir.

Q. Have you ever heard any talk among the men that any of your company, or any of the members of the battalion, were out in town that night?—A. Heard of them being out in town?

Q. That night, engaged in this shooting?—A. No, sir; I have never heard anything of that.

Q. You never heard any talk among the men that any member of the battalion was in town that night engaged in that shooting?—A. No, sir; I have never heard anything about it.

Q. Didn't you hear that certain members of Company C were suspected of being in that shooting that night?—A. Yes, sir.

Q. Which one of the members did you hear of as being suspected as being engaged in that shooting?—A. As far as I heard, they said Corporal Miller was out in town that night.

Q. Engaged in that shooting?—A. I don't know whether he was engaged in it or not, but they say he was in town.

Q. Who else of your company did you hear were out in town that night engaged in the shooting?—A. I did not hear of anyone else to my knowing, no, sir; I did not hear of anybody.

Q. Who did you hear say that Corporal Miller was out in town that night?—A. Oh, I heard them talking the next morning—that is, they wanted to know who was in town last night, and if everybody was brought in, and some one said there was a sergeant or somebody over in Matamoros, and then some one else said: "Why, no, it was Corporal Miller was in town last night, and he came in over the wall or some other place." I don't know how he got in, but they said he was in town.

Q. They said he was in town and came into the barracks over the wall?—A. He was on pass, and the patrol did not see him, or he was out of their reach when they were around, and so therefore I heard he was left in town and never knew anything until this shooting occurred, and then he was trying to get in the barracks; they said he got in there some way or other; I don't know how he got in.

Q. Whom did you hear make that statement?—A. Oh, I heard several fellows; I don't know their names, but I heard several men say he was out in town that night.

Q. Who else did you hear of the battalion was in town that night?—A. No one that I can remember of.

Q. Did you ever hear of any of the guns being dirty or foul the next morning?—A. No, sir.

By Senator FORAKER:

Q. Speak up so I can hear you.—A. Only the guard that gave the report.

By Senator WARNER:

Q. What did the guard report?—A. He said he fired his piece twice. That is the only man I knew that his gun was found dirty.

Q. Did you hear among your companions there of any other man whose gun was dirty or foul or had been shot?—A. No, sir.

Q. Did you hear during the inspection that any of the guns were found foul?—A. No, sir.

Q. You are certain that on that morning when they had the inspection at the guardhouse by Captain Macklin he used no rod nor

any rags to clean out the guns, but just inspected them in the usual way?—A. I don't know. He did not clean mine. I did not see him push anything in mine; but then, as a general rule, they always inspected the guns, and they can look in the barrel and tell whether they have been shot or not without pushing anything in them. They can see. If there is a speck of dirt in there, why, then, they naturally know that it has been dirty in some way.

Q. You presented your gun to him and he inspected it by looking through the barrel?—A. Yes, sir.

Q. And found it clean?—A. Yes, sir.

Q. And made no further inspection?—A. No, sir.

Q. And that is the way he did to the rest of the guard, as far as you could see?—A. Yes, sir; as far as I could see. I don't know whether he did anything more to them afterwards or not, but I know what he done to mine and some others.

Senator FORAKER. I believe that is all. This witness is not to leave town. He is to remain here until to-morrow.

Thereupon (at 4 o'clock and 10 minutes p. m.) the committee adjourned until Tuesday, March 12, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, March 12, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Foster, and Overman.

Senator FORAKER. I now produce the discharges of the witness, Alexander Ash, mentioned at page 964 of this record, in his testimony given on yesterday, and ask that they be incorporated in the record in full.

The documents referred to are here printed in full in the record as follows:

ARMY OF THE UNITED STATES.

To whom it may concern:

Know ye that Alexander Ash, a private of Company D of the Twenty-fifth Regiment of Infantry, who was enlisted on the 24th day of August, 1903, to serve three years, is hereby honorably discharged from the Army of the United States by reason of expiration of term of service.

The said Alexander Ash was born in Marshall, in the State of Virginia, and when enlisted was 24½ years of age, 5 feet 9¼ inches high, dark-brown complexion, brown No. 1 eyes, black hair, and by occupation a farmer.

Given under my hand at Fort Brown, Tex., this 23 day of August, in the year of our Lord 1906.

C. W. PENBOSE,
Major, Twenty-fifth Infantry, Commanding.

Character.—No objection to his reenlistment is known to exist. Very good.

SAMUEL P. LYON,
Captain, Twenty-fifth Infantry, Commanding Company D.

(On back:)

Military record.—Continuous service at date of discharge, three years.

Previous service: None.

Noncommissioned officer: Never.

Marksmanship: 1904, second class; 1905, first class; 1906, first class.

Battles, engagements, skirmishes, expeditions: None.

Wounds received in service: None.

Physical condition when discharged: Good.

Married or single: Single.

Remarks: Service honest and faithful. Entitled to traveling allowance. No allotment; no deposits. Has been issued part of new uniform.

SAMUEL P. LYON.

Captain, Twenty-fifth Infantry, Commanding Company D.

ARMY OF THE UNITED STATES.

To whom it may concern:

Know ye that Alexander Ash, a private of Troop C, of the Ninth Regiment of Cavalry, who was enlisted the 24th day of August, 1906, to serve three years, is hereby discharged without honor from the Army of the United States in consequence of paragraph 1, Special Orders, No. 266, War Department, November 9, 1906.

Said Alexander Ash was born in Marshall, in the State of Virginia, and when enlisted was 24 years of age, by occupation a soldier, had brown No. 1 eyes, black hair, dark complexion, and was 5 feet 9½ inches in height.

Given under my hand at Fort Riley, Kans., this 13th day of November, 1906.

E. S. GODFREY,

Colonel Ninth Cavalry, Commanding Regiment.

TESTIMONY OF CAPT. DANA WILLIS KILBURN, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Please give us your name in full, so that we may have it in the record?—A. Dana Willis Kilburn.

Q. What command do you belong to?—A. I am captain and quartermaster of the Twenty-sixth Infantry; quartermaster at Fort Sam Houston, Tex.

Q. How long have you been in the service—in the Army, I mean?—A. For eighteen years, including West Point service.

Q. Including West Point. In what class were you graduated from West Point?—A. The class of 1894.

Q. Were you connected with the Twenty-sixth Infantry in the year 1906?—A. Yes, sir.

Q. Were you with the battalion of that regiment that was stationed at Fort Brown, Brownsville, Tex.?—A. Yes, sir.

Q. Last year?—A. Yes, sir.

Q. When did that battalion go to Fort Brown?—A. About the 4th of September, 1903.

Q. What companies composed that battalion?—A. Companies I, K, L, and M.

Q. Was Company I there all the while?—A. No, sir.

Q. Where was it a part of the time?—A. At Fort Ringgold, Tex.

Q. How far is that away from Fort Brown?—A. About 85 miles.

Q. Did it go with you to Fort Brown in the first place?—A. It went down in the first place; yes, sir.

Q. How long did it remain there?—A. About two or three months; I have forgotten exactly how long.

Q. And it was then sent to Fort Ringgold?—A. Yes, sir.

Q. Did it or not return to Fort Brown and join the battalion before the battalion came away from there?—A. It returned to Fort Brown the first part of May, 1906.

Q. So that from May until the time that the battalion left, the four companies were all there, were they?—A. Yes, sir.

Q. What time did your battalion leave Fort Brown?—A. I left in June, myself. I think they left the 28th of June.

Q. 1906?—A. Yes, sir.

Q. Was it not the 5th of July? There is no importance attached to that.—A. Yes, sir. I think it was. They got up to San Antonio just after the 4th of July, as I remember now.

Q. From the records of the War Department it appears that it was the 5th of July. I would not interrupt you to correct that so far as the difference of a few days is concerned. You left before the battalion left?—A. I left on the 1st of June for San Antonio.

Q. Why did you leave at that time?—A. To accept a position on the colonel's staff as regimental quartermaster.

Q. The staff of the colonel of the regiment?—A. Yes, sir.

Q. Who was the colonel of the regiment?—A. Col. George Leroy Brown.

Q. And you have held that position ever since?—A. Yes, sir.

Q. You were at Fort Brown, however, during the year 1906?—A. Yes, sir.

Q. Down to this time when you left on the 1st of June?—A. Yes, sir.

Q. Were you in Fort Brown with your battalion when the order was promulgated, or announcements made of it in the newspapers, that your battalion was to leave, and that you would be succeeded by this battalion that did succeed you, from the Twenty-fifth Infantry?—A. Yes, sir; I was there at the time the order was received, and was commanding the post at the time.

Q. You were then in command of the three companies and the post?—A. Four companies. I Company was there.

Q. Were all four companies there then?—A. Yes, sir.

Q. You were in command?—A. Yes, sir.

Q. You had been there, then, about two years, at that time?—A. About two years and a half.

Q. About two years and a half. Had you or not become pretty well acquainted with the citizens of Brownsville in that period?—A. Yes, sir.

Q. State whether or not you moved about among the citizens of Brownsville, after this order was promulgated, enough to hear expressions from them as to their feeling concerning the coming of the colored troops.—A. Yes, sir; I went out quite a good deal, and met the people, and think I know pretty well what the idea and the feeling of the people were relative to this order.

Q. Please tell us what the feeling was.—A. The better class of people in town simply expressed their disapproval; they did not like the idea of the colored troops coming down there. Some of the others—I mean by the others the ordinary men you would see hanging around drug stores and saloons, and along the streets—were more open in their remarks, and expressed their disapproval.

Q. What was the nature of their remarks, if you can tell us?—A. That it would not be long before they had the colored troops run out of town, and the white troops back again.

Q. Can you tell us of any instances in which you heard remarks of that nature?—A. Yes, sir; there was one afternoon, I think it was

about, some time after the 18th of May, Mr. Tillman's store is just opposite Crixell's, on Elizabeth street.

Q. His saloon?—A. No, sir; it was a store just opposite Crixell's. I was in there one afternoon about half past 5, and three or four other men were in there, and Mr. Tillman made a remark; he said: "We will run the negro troops out of town in three weeks, and have the white troops back;" and the other men in there at the time—I do not remember now who they were—coincided, and agreed with this remark.

Q. We have had testimony already before this committee about a saloon called the "Tillman saloon." You speak of Tillman's store. Was that the same Tillman, or a different Tillman?—A. The same Tillman. He afterwards changed it into a saloon, after I left; so I heard.

Q. What kind of a store was it while you were there?—A. A fruit store and grocery, and a kind of nondescript place.

Q. Where was it?—A. About the middle of the block, beyond the Miller Hotel, on Elizabeth street, on the right hand as you would go down from the post.

Q. There is a map on your left, with the streets, but only a few houses located on it. It does not show where this point is that you refer to. I will pass that. If we want to get it more particularly, we can do it later. You heard that remark by Mr. Tillman?—A. Yes, sir.

Q. What other remarks, if any, that you can recall, did you hear?—A. There were others. I could not say exactly who made them, but I heard from time to time that they were going to get up a posse and meet the colored troops at the train and not allow them to get off. Another thing I heard was that they were going to get up a subscription to send a delegation on to Washington to protest against it.

Q. State whether or not this general talk that you heard from time to time, and at different places, was in a general way hostile to the negro troops, or otherwise.—A. Undoubtedly it was.

Q. Now, you said the better class of the population made remarks only of general protest, but the other classes were making remarks of the character that you have described. Tell me how large a population this city of Brownsville has, as near as you can estimate.—A. Oh, probably about 6,000 would cover it. I don't know exactly.

Q. What is the nature of the population as to nationality?—A. It is mostly Mexican.

Q. What is the nature of the Mexican part of that population?—A. They are of a pretty low grade of intelligence, and I would not think they were very good citizens, as a rule.

Q. State, if you know, who the police are of that city.—A. When we first went down there—I am speaking of January, 1904—there was a police force of ten, and there was only one man on that police force who could read, speak, and understand English.

Q. Who were they?—A. The other nine were Mexicans.

Q. How long did that continue, if you know?—A. I could not say. I think up to the time when Mayor Combe went in. But I would not state that positively.

Q. When did Mayor Combe take office, if you can tell us?—A. I think it was in 1905.

Q. Did he inaugurate reforms?—A. Yes, sir; decided reforms.

Q. Tell us what some of the reforms were that he inaugurated.—
A. He changed the police force and uniformed them; had them wear a badge, so you could tell a policeman.

Q. What kind of a uniform did they wear?—A. It was a blue uniform—a double-breasted coat with brass buttons, and a badge and a blue hat (a soft hat, a felt hat) with a hat cord around it, and I think there was some insignia on the front of the hat; I have forgotten what it was. They wore a badge.

Q. State whether or not in the summer of 1906 that uniform was changed to a khaki uniform, if you know.—A. I do not remember.

Q. You left the 1st of June?—A. Yes, sir.

Q. Do you know whether he changed the personnel of this police force so as to discharge the Mexicans and put on Americans?—A. I know that some Americans were put on. I do not know if all the Mexicans were discharged.

Q. Now tell us, if you know, what the habits of the people were as to the wearing of firearms in Brownsville and in that vicinity.—
A. Up to the time that Mayor Combe went in it was a very common thing to see a man with one or two pistols strapped on him and even men carrying rifles around the streets. It was not any uncommon thing in just an ordinary walk down a block or two to see six or seven revolvers strapped onto men.

Q. Wearing them generally?—A. Yes, sir.

Q. State whether or not that custom prevailed generally through that vicinity.—A. Yes, sir.

Q. Tell us whether or not while you were there there was any shooting at any time, any other time, in Brownsville or in the vicinity that came to your knowledge.—A. Yes, sir; on an average two or three nights every week a number of shots would be fired out on that road running past the post there, out toward Adams street, and we never paid much attention to it, it was so common, unless the shots were so plain that we thought they were on the post.

Q. Do you know of any shooting scrapes in which any of your men were hurt, or any other troubles of any kind?—A. Yes, sir.

Q. Tell us of those.—A. There was one man by the name of John N. Bryan, of Company M, who was shot in the leg or in the hip, either in the latter part of 1905 or the first part of 1906. He was afterwards tried by the civil authorities and acquitted. Another man of my company was beaten up quite severely by the policemen, and he was tried and acquitted.

Q. What is his name, if you recollect?—A. A man by the name of Neff.

Q. Neff?—A. Yes, sir. He is no longer in the service.

Q. Is Bryan still in the service?—A. Yes, sir.

Q. Where is he?—A. At Fort Sam Houston.

Q. In what company?—A. Company M.

Q. He is at Fort Sam Houston. All right. You do not know where Neff lives? He has been discharged?—A. Yes, sir. I think I heard from some man in the company that he is over in Constantinople. He went on some trading schooner.

Q. You have told us of two instances, Bryan and Neff. Can you tell us of any others?—A. There were a great many instances reported to me by the first sergeant—I was commanding Company K at that

time—of rows between the police force and the soldiers. I am speaking about our soldiers, the white soldiers, now.

Q. Yes.—A. It really got to such a state there that Major Cooke, who was commanding the post at that time—this was in 1904-5—sent me down to see the mayor relative to the way the American soldiers were being treated, but it did not seem to do any good. Mr. Bartlett, I think, was mayor at that time.

Q. Who?—A. Mr. Bartlett.

Q. Yes.—A. He succeeded Judge Carson at that time.

Q. He was afterwards created into a judge, I believe?—A. Yes, sir. Carson had died in office and Bartlett had been elected mayor to fill out his term. I went down to see Mayor Bartlett. On one instance I sent in from the target range a corporal, a man who was sick, in order to get some medicine. It was about 9 miles to the target range, and I had a revolver and I gave the man the revolver to ride in after the medicine. It was dark and it was rather a lonely road. The man did not turn up the next morning and I came in to see about it, and I found out that the police force had locked the man up—the man and the mule and everything—in the jail there; locked him up.

Q. Yes.—A. Another instance happened right near my own company. I had this barracks that is marked "D" here.

Q. That is barracks D, between the river and the gate?—A. Yes, sir. This happened right at the gate there. One of my men went out of the gate, and a Mexican stepped up and said, "Do you want to fight?" He said, "No," and the Mexican made a pass at him and missed him, and the man knocked him down, then, and the Mexican said, "Come on to the jail with me." He took him down and turned him over to the jailer, who accepted him, and we afterwards found out that this man had nothing to do with the police force whatever.

Q. He held himself out as an officer?—A. Yes, sir.

Q. And because of that your soldier went with him?—A. Yes, sir.

By Senator OVERMAN:

Q. Was he a white or colored soldier?—A. These are all white soldiers that I am speaking of.

By Senator FORAKER:

Q. Can you tell us of any other instance?—A. Yes, sir. Two soldiers belonging, I think, to M and L Companies—I will not say positively which—went down to a hotel, and a man left his watch somewhere where these soldiers had been and claimed that he had lost it, and he complained to the chief of police—Lawrence J. Bates, I think, his name was. They traced these two soldiers and found they had gone across the river, and when they came back they were met at the custom-house, and the police officers that met them said: "I want to search you; hold your hands up." They held their hands up over their heads, and they searched one of them and could not find the watch at all, and the other man took out some pesos that he had in his pocket and counted them that way into his hand, one, two three, four, five pesos, and clinched them in his hand, and held his hand up over his head in that way [indicating], and they searched him, and then they said, "What have you in your hand?" He said, "I

showed you what I had in my hand." He said, "Open your hand." He said, "I will not," and then they struck him over the head with a pistol and knocked him down.

Q. State whether or not that was a common way of treating people—soldiers—in Brownsville, by the police hitting them over the head with a pistol and knocking them down.—A. They seemed to be very handy with them.

Q. State whether or not you can recall any other instances.—A. I can recall no other specific instance now.

Q. You spoke of an instance where a man named Cyzyack, I believe the name was, who belonged to Company M, was beaten over the head with a revolver when they simply wanted to arrest him.—A. Yes; he and a man by the name of Rappe, I believe, were out together.

Q. Tell us as much as you know about that.—A. They did not belong to my company, and all I know about that is what I heard from Captain Roche, the captain of Company M.

Q. He was captain of that company?—A. Yes, sir. I just heard the instance; that they had had some row there and that both of them were pretty badly beaten up.

Q. It was very easy for a soldier to get into a row in Brownsville?—A. It was more easy than to stay out of a row.

Q. It was more easy to get in than to stay out. Can you tell us of any other instances?—A. I do not think of anything else now.

Q. You have told us of quite a number. Do you think that you have recalled all that happened while you were there?—A. Oh, no, sir; I think that there were a great many others that I never even heard about.

Q. Putting it all in a nutshell, was the feeling of the citizens of Brownsville one of friendliness toward the soldiers or one of hostility against soldiers?—A. There was a certain class of people in Brownsville that thought a soldier was legitimate prey, and wherever they could catch him out, they would go for him; but I would hardly say that the whole town of Brownsville was hostile to soldiers.

Q. Yes. You have stated that there was a better class of population, that was like the better class of population elsewhere?—A. Yes, sir; they did not like those things, and frowned down on them as much as they could.

Q. But there was a class of people also, as I understand you, entirely unfriendly to the soldiers?—A. Yes, sir.

Q. Ready at any time to pick a quarrel with them?—A. Yes, sir.

Q. And this police force, made up, when you went there, of nine Mexicans who could not speak the English language—

The CHAIRMAN. Did he testify to that?

Senator FORAKER. Yes; he testified to that.

By Senator FORAKER:

Q. (Continuing.) And one American only, they were, as a rule, judging by what they did, unfriendly to the soldiers?—A. Yes, sir.

Q. And, as I understand you, it was a common habit with them in arresting your soldiers to hit them over the head with the butt of a pistol?—A. They generally hit them first.

By Senator OVERMAN :

Q. Was that before Combe was elected mayor? How long had you been there before he was elected mayor?—A. About a year.

Q. He made reforms?—A. Yes, sir.

By Senator FORAKER :

Q. He prohibited the carrying of firearms?—A. Yes, sir.

Q. And exerted himself to break up that practice and these bad habits generally?—A. Yes, sir.

Q. He had been in the Army, had he not?—A. Yes, sir; he had been a major and doctor.

Q. And was a very intelligent and reputable man?—A. Yes, sir; he served in the Philippines about a year and a half.

Q. Did you hear of any murders being committed down there while you were there?—A. Yes, sir.

Q. Tell us about them; and can you tell us of an instance in which a murderer was prosecuted successfully and convicted, or prosecuted at all, first, I will ask you?—A. There were two cases. Putegnat, I think one man's name was. This man was killed at a little station just above Brownsville.

Q. Harlingen, was that it?—A. Yes, sir. I never heard of anybody being brought to trial for the case. Another man by the name of Lon Hill killed a Mexican down there. That must have been in April, 1906, and I have never heard of his being brought to trial.

Q. Was he arrested?—A. No, sir.

By Senator OVERMAN :

Q. Did you know anything about the facts and circumstances?—A. Only by hearsay.

Q. Do you know whether there was a coroner's inquest held?—

A. I know that there was an inquest held.

Q. Do you know what the verdict of the coroner's inquest was?—

A. No, sir. It was claimed that this man laid for him.

By Senator FORAKER :

Q. It was claimed that this Lon Hill was a long-haired individual?—A. Yes, sir.

Q. With hair something like Absalom, as I understand?—A. Yes, sir.

By Senator OVERMAN :

Q. Was he the man that shot and killed a man?

Senator FORAKER. Yes; killed a man. They do not call it murder down there.

Senator OVERMAN. I thought perhaps he was acquitted by the coroner's jury.

By Senator FORAKER :

Q. What had this man that he killed done, if you remember?—A. I do not know the facts.

Q. Let me see if I can not refresh your recollection. Is it not true that Hill heard that this man had said about him, Hill, that he would take his long hair and make a charm to keep the rattlesnakes away from him, alluding to some habit that they have among Indians?—

A. There was some rumor to that effect. I did not pay much attention to it.

Senator OVERMAN. I do not think that we had better go into the trial of these murder cases here.

Senator FORAKER. I want to show the kind of community in which these soldiers were quartered. It has been said that it was not to be supposed that they would go out and shoot up the town themselves.

Senator WARNER. I suggest that we proceed.

By Senator FORAKER:

Q. There was a class of people there who were reputable?—A. Yes, sir.

Q. And then there was this other class with which occurrences of this kind were not infrequent?—A. Yes, sir.

Q. But you say as often as two or three times a week you would hear the shooting of firearms in that vicinity?—A. Yes, sir.

Q. Now, what is immediately opposite Brownsville—what city?—A. Matamoras.

Q. Have you ever been over there?—A. Yes, sir; frequently.

Q. What kind of a city is it?—A. It is a city that at one time used to be of a good deal of importance when the Rio Grande was open; but now it is just one of these Mexican cities that has practically died out with dry decay. There are some very wealthy people living there still, but I think it is because they never got enough energy to move anywhere else.

Q. There are some very good people there?—A. Yes, sir.

Q. What is the population, principally Mexican?—A. Oh, entirely.

Q. Entirely Mexican?—A. Yes, sir; there are a few English and Americans living there, but the preponderance of the population is Mexican.

Q. Speaking in a general way, it is a Mexican population?—A. Yes, sir.

Q. State whether or not there is a large bad element in that city.—A. A great many. They used to come across the river quite frequently, and a great many things were laid to them, I do not know whether justly or unjustly; but I know that they used to come across in gangs there. We could see them at the ferry. There is a little ferry running across there.

Q. That ferry is where you see the word "Levee" on the map? You go out Elizabeth street two squares and then turn down?—A. Yes, sir; right across there.

Q. The ferry is at the foot of Twelfth street?—A. Yes, sir; at the foot of Twelfth street.

Q. Have you seen gangs of these Mexican toughs going across there?—A. Oh, you would see them going back and forth all the time, especially in the nighttime.

Q. Were they armed, as a rule?—A. I do not know. Nearly all Mexicans carry knives, anyway.

Q. You said you had heard many things charged to them?—A. Yes, sir.

Q. How did you hear that?—A. From the soldiers. The first sergeant used to keep me posted pretty well on what the men of my own company were doing.

Q. About how many shots?—A. Well, I could not exactly say.

Q. Can you give an idea of how many shots you heard before you left the guardhouse?—A. Oh, I heard two shots before I left the guardhouse.

Q. Is that all?—A. Yes, sir; that is all.

Q. Where were they?—A. They came from the same direction—that is, I heard them back there.

Q. Came from the direction of the barracks?—A. Yes, sir.

Q. Well?—A. And then while I was coming back, going back to the guardhouse, then I heard the shooting that seemed as though it was in between—just in between the interval of B and C down the alley some place near by there.

Q. That alley that is between Washington and Elizabeth streets?—A. Yes, sir; I think a little ways down there.

Q. It seemed to be down that alley?—A. Yes, sir.

Q. When was it you heard the call to arms sounded—on your return from having called Captain Macklin?—A. No, sir; when I was going.

Q. And you had got about halfway down, you say?—A. Yes, sir.

Q. What was the distance from the guardhouse to Captain Macklin's? He was at the lower officers' quarters, down nearest the Rio Grande there, that double building. What was the distance—about how many hundred yards?—A. About 500 yards, I should say; between four and five hundred.

Q. And you had gotten about half that distance, or two or three hundred yards, when you heard the call to arms?—A. Yes, sir; about half that distance, because just as I got by Major Penrose at the guardhouse he said, "Sound the call to arms."

Q. And you went down and called Captain Macklin?—A. Yes, sir.

Q. And he asked you what was the matter?—A. No, sir; he never asked me what was the matter.

Q. He replied to you?—A. Yes, sir; he said, "All right."

Q. What did you say to him?—A. I told him the sergeant of the guard told him to report to the guardhouse; that he must come to the guardhouse right away.

Q. And he said, "All right?"—A. He said, "All right."

Q. You knew where Captain Macklin usually slept?—A. Yes, sir.

Q. Did you find him that night in the room where he usually slept?—A. No; I did not go to his room. I knocked on the door below his room. His room was right up above where I knocked. He could easily hear.

Q. You knew where that room was?—A. Yes, sir.

Q. So you knocked in that usual place?—A. Yes, sir.

Q. And he answered from the room where he usually slept?—A. Yes, sir.

Q. You are quite clear about that?—A. Yes, sir; he answered.

Q. And the next morning Captain Macklin spoke about that to you?—A. Yes, sir.

Q. What did he say to you the next morning?—A. He asked me if I was over at his house last night. I told him yes. He said did I wake him up, and I told him yes. He said, what did he say, and I said he said "All right." He said probably he was dreaming. He

did not know whether he was dreaming or asleep, only he thought he heard somebody call him.

Q. Was there anyone else came there to wake up Captain Macklin?—A. No, sir; I was not present. I heard that some one, some of the men, had went there previous to me, but I don't know.

Q. And they could not find him?—A. I don't know whether they found him or not.

Q. You heard afterwards that he was not sleeping at all in his bed, didn't you?—A. No, sir; I never heard anything about it.

Q. Didn't know anything about that?—A. No, sir. That was his house that I went to.

Q. I think there is no question about it that you stated that the captain said: "All right," when you told him you had been ordered to come over there and call him up to report?—A. Yes, sir.

Q. You knew his voice?—A. Yes, sir.

Q. You went back to the guardhouse?—A. Yes, sir.

Q. Was the firing still going on?—A. Yes, sir.

Q. And after you got back to the guardhouse?—A. The guard was formed.

Q. The guard was formed after you got back to the guardhouse?—A. I found the guard formed.

Q. You found it formed there?—A. Yes, sir.

Q. What was done then?—A. I joined the guard.

Q. How many were in the guard?—A. I don't know, sir.

Q. You don't know who were absent?—A. No, sir.

Q. Who was sergeant of the guard?—A. Sergeant Reid.

Q. Any other sergeant?—A. No, sir.

Q. Did you go to the barracks at all?—A. No, sir.

Q. The next morning your guns were inspected by Captain Macklin?—A. Yes, sir.

Q. Were you at the guardhouse when they were inspected?—A. Yes, sir.

Q. Now, what did he do to inspect your guns?—A. Why, first, we had to open the chambers, and then he took them and looked down the barrel, and looked at the bolt and the pin.

Q. That is the usual way of inspecting, is it?—A. Yes, sir.

Q. And passed the gun back to you?—A. Yes, sir.

Q. Was there anything else done there?—A. No, sir; not as I know of.

Q. You are clear about that?—A. Yes, sir.

Q. Isn't it a fact that Captain Macklin had a brass rod there and a rag?—A. At the guardhouse?

Q. Yes.—A. No, sir; not to my knowing.

Q. You saw him, didn't you?—A. I saw him; but I didn't see any rod with him; no, sir; I didn't see him with any.

Q. You did not see it? He took your gun and inspected it as you have stated, and that is the way the other guns were inspected?—A. Yes, sir.

Q. You were on the patrol that night?—A. Yes, sir; at 8 o'clock.

Q. Did not find any soldiers at all?—A. No, sir.

Q. Did you go down to the landing, to the wharf or that part?—A. No, sir; there was one man went to the landing. He was sent there before 8 o'clock, before retreat.

Q. But you did not go there?—A. No, sir; there was no orders to go to that part of the town. We went around in one direction and another one went another way, and we all met back at the guard-house.

Q. The sergeant of the guard told you to go and wake the officer of the day?—A. Yes, sir.

Q. Was it the habit of the officer of the day to go to sleep about that time?—A. Why, he would usually go to his quarters after 11 o'clock, sir. Whether he goes to sleep or not I don't know; but they are in the house—supposed to be.

Q. Supposed to be in the house? You knew that evening there was some trouble, did you not, when the patrols were sent out to bring the soldiers in?—A. I didn't know.

Q. Hadn't you heard of it?—A. No, sir; I had never heard anything.

Q. Never had heard of any trouble between the soldiers and citizens of Brownsville?—A. No, sir.

Q. The sergeant of your company gave you no notice of the reason why the patrols were being sent out?—A. No, sir; I never heard any order at the company, because I was not there at the company only at meal hours. He never said anything to me, at least. That is all I heard of it—that is, the officer of the day came over and told the sergeant of the guard to send out two patrols at 8 o'clock and have the men all come in, because their passes just extended to 8 o'clock and no further. They wanted to know what was the matter, but I guess they were all like me. I never knew what was the matter until I heard this commotion that night; that is all.

Q. After this did you hear this shooting at Brownsville talked of there very much among the soldiers?—A. After the shooting?

Q. Yes, sir.—A. No, sir; we were not allowed out in the town.

Q. Did you talk of it among yourselves?—A. Why, yes; just the same as everybody else. We wanted to know who did it and all like that.

Q. You knew that it was charged that some of the soldiers had done the shooting up of the town?—A. Yes, sir; it was charged.

Q. That some of the ammunition had been found, for Springfield rifles, down in the town?—A. I don't know as there was any ammunition found.

Q. It has been charged—it was so stated?—A. Yes, sir. I heard it that some shells had been found, but then there was some one else said they were not cartridges that we had been shooting then at the time in that rifle, so they did not know whether—

Q. Who said that?—A. I don't know, sir; some soldier or other, I don't know who. I just happened to hear him talking.

Q. When was that?—A. That was the next day, I heard them say that they had found some empty shells.

Q. And one of the soldiers said that it was not the kind of shells you were using then?—A. One of the teamster soldiers said that it was not the same kind of a cartridge that they were shooting, that they had found down there, that we usually shot in our guns.

Q. What teamster soldier was that?—A. I don't know, sir.

Q. What kind did he say that was found?—A. He said it was the old Krag-Jørgensen shells that they had found, that had been all *rusted*, and so he said they could not do anything about that; he said

they could not prove anything about it, because that was not the same ammunition that they were using here now.

Q. Whom did he tell that they could not prove anything? How did that come?—A. I don't know, sir.

Q. Were you discussing whether they could prove it on the soldiers or not?—A. No, sir; I had a prisoner at the time, and I was going around working, so I heard them talking at the corral.

Q. Well, I know, but the teamster was talking to the soldiers, was he?—A. No, sir; just among the teamsters themselves. There was a Mexican, the corral master, he told a fellow; he said, "I see where they found some shells this morning in the town," and another fellow said, "Yes, but it ain't the same kind; it isn't the same kind of ammunition that they use in these guns." He said, "They belonged to the Krag-Jørgensen."

Q. Did you tell that to the soldiers?—A. No, sir.

Q. You never told it to your comrades?—A. No, sir; I just merely heard it. I didn't know what it was, whether they knew anything about it or not.

Q. But you never mentioned it to them?—A. No, sir.

Q. This firing that you heard seemed to be down in the rear of the barracks?—A. Yes, sir.

Q. Did you hear firing in any other direction?—A. No, sir; I did not hear firing in any other place.

Q. Didn't you hear some firing up beyond the hospital, up toward the county road? You know where that county road is?—A. Yes, sir; I know that road.

Q. Did you hear any firing up that way?—A. No, sir.

Q. No firing at all?—A. No, sir.

By Senator OVERMAN:

Q. When was it that Reid and Newton told you they had been abused out in town? Was that before or after the shooting?—A. I guess it was before; I don't know anything about that either. That was before the shooting, I think.

Q. Both talking to you together or separately?—A. They never had any talk with me. I just heard the talking.

Q. To whom were they talking?—A. I was sitting congregated in a company.

Q. How many in the company?—A. I don't know, sir.

Q. Give an estimate. Was there a half a dozen or a dozen?—A. You mean that were talking at the same time?

Q. You said they were talking to a crowd—how many?—A. Oh, well, I don't know the crowd exactly.

Q. I don't want you to give their names. I want to get an estimate of the number.—A. Probably eight or nine; something like that.

Q. Eight or nine?—A. Yes, sir.

Q. Where was that?—A. That was in the quarters on the porch.

Q. In C quarters?—A. Yes, sir.

Q. Did they seem to be pretty indignant over it?—A. Oh, I don't know. I happened to be coming in that night and heard them talking.

Q. What night was that?—A. I don't know exactly the night.

Q. How long before the shooting?—A. I could not tell that; I don't know.

Q. Why did you suspend it?—A. There was some complaint made that the bullets were going across the river into Mexico.

Q. Firing from the rear of officer's quarters, across the end of that dry lagoon as indicated on the map, would be in the direction of Matamoros?—A. Yes, sir; below Matamoros.

Q. It would be below Matamoros?—A. Yes, sir.

Q. Matamoros is up there opposite the foot of Twelfth street?—A. Yes, sir; we fired down this way [indicating on map.]

Q. But would it be also toward the lower end—I will call it—the southern end, of that reservation?—A. Hardly; but there were one or two little ranches down there, and when we heard of that complaint we stopped it.

Q. How far did those bullets have to go?—A. Before they went into Mexico?

Q. Yes.—A. They had at least 1,900 yards to go before they would strike Mexico.

Q. One thousand nine hundred yards; that would be over a mile.—A. Yes, sir; because I measured that place myself. That question came up.

Q. You did measure it?—A. Yes, sir.

Q. Clear over into Mexico?—A. When that question came up I measured it down on our place and then estimated the width of the river there.

Q. You measured from the place where you were firing down to the river and then estimated the distance across?—A. Yes, sir; that was 1,800 yards down to the river.

Q. And then you estimated the width of the river?—A. Yes, sir.

Q. That reminds me about that river. State whether or not there are any bancos, as they call them, in that river.—A. Yes, sir.

Q. Do you know what a banco is?—A. Yes, sir.

Q. Describe it.—A. It is a small island in the center of the river owing to a change in the course of the river.

Q. Is it really an island or a sort of U-shaped piece of land?—A. Usually it is due to a change in the course of the river, but sometimes it is an island, and sometimes it is a flat piece of ground that kind of comes up like that [indicating].

Q. I will ask you whether or not you know that sometimes our boundary line has been altered so that a man living on one of those bancos would find himself sometimes in Texas and at other times in Mexico?—A. Yes, sir. It is a great place for smuggling.

Q. Smuggling?—A. Yes, sir.

Q. That is what I wanted to ask you about. Is there or not at Brownsville a great deal of smuggling?—A. Yes, sir.

Q. And are or not these bancos utilized in that respect?—A. Yes, sir.

Q. State whether or not there is a force of mounted inspectors, as they are called, in the customs service at Brownsville.—A. They have a large river guard. I do not know whether they are mounted or not. I suppose they probably are.

Q. You would see them about there?—A. Yes, sir.

Q. Are they armed?—A. Yes, sir.

Q. What kind of arms do they carry?—A. Six-shooters.

Q. Do they have any guns?—A. Sometimes, when they ride out toward Hidalgo, up the river, they will carry one of these cut-off carbines.

Q. How far up the river is Hidalgo?—A. It is about 40 miles.

Q. That is on the way to Rio Grande City, is it not?—A. Yes, sir.

Q. Now, coming back to this Springfield rifle; you have told us about your experience with the Krag-Jörgensen. Did you ever use the Springfield out there for gallery practice, or anything of that nature?—A. I think they used it for gallery practice, but I would not state positively.

Q. You did not superintend it?—A. No, sir.

Q. You have not any personal knowledge of it?—A. No, sir.

Q. The shells that were exploded when you engaged in target practice out there, did they or not become scattered round about the fort?—A. They would be; we tried to pick them up as well as we could, but even then they would be lost in the grass.

Q. Now, Captain, are you sufficiently familiar with the new Springfield rifle to tell us what its power of penetration is?—A. No, sir.

Q. I will call your attention to an authority on that subject. You know about the Krag-Jörgensen, do you not?—A. Yes, sir.

Q. What is the penetration of the Krag-Jörgensen in, say, pine board?—A. About 40 inches in pine.

Q. That is to say, a Krag-Jörgensen rifle would shoot a bullet, with the service charge of powder, through 40 inches of pine, would it?—A. Yes, sir.

By Senator LODGE:

Q. That is, fired point blank?—A. No, sir; I think that is at 100 feet.

Q. One hundred feet?—A. Yes, sir.

By Senator FORAKER:

Q. You do not know what the penetration of the Springfield would be?—A. No, sir.

Q. You are not familiar with that?—A. No, sir.

Q. I will put that in, as Senator Warner suggests, in another connection. Are you familiar with the houses of Brownsville?—A. Yes, sir.

Q. What kind of structures are they?—A. Usually of a light grade of wood. Some of the better houses are built of brick and adobe.

Q. Do you know the Cowen house?—A. Yes, sir.

Q. That is on the alley?—A. Yes, sir.

Q. It is indicated on the map by the figure "2"?—A. Yes, sir; I know that house.

Q. What kind of a house is that?—A. It is a frame house made out of pine—ordinary lapboard, I think.

Q. Can you tell us how thick the weatherboarding is on the outside?—A. I should say it certainly would not be over half an inch.

Q. Were you ever in that house?—A. Yes, sir.

Q. What kind of structure is it on the inside—that is, is it plastered or simply ceiled with pine boards?—A. It is ceiled.

Q. With pine boards?—A. Yes, sir.

Q. How thick are those boards with which it is ceiled?—A. I suppose about the same thickness—half an inch.

Q. So that the thickness of that house would be the thickness of the weatherboarding and the thickness of the ceiling?—A. Yes, sir.

Q. And do you know anything else that would add to that thickness?—A. No, sir.

Q. If a Springfield high-power rifle were fired at that house from close range, what, in your judgment, would be the power of penetration as to the walls of that house?—A. It ought to go clear through the house.

Q. Go clear through the house. How many houses like it would it probably go through?—A. Why, if you had the other houses right up against it, it ought to go through three or four of them, I should think.

Q. Can you tell us of any other houses in Brownsville—I am speaking of frame houses—any other frame house that one of these high-power Springfield bullets would not go through?

Senator WARNER. I would submit that the witness has said that he does not know about the power of penetration of the Springfield rifle.

By Senator FORAKER:

Q. I will ask you about the Krag-Jørgensen rifle. You say the bullet from that rifle would penetrate 40 inches of pine board. Would it or not shoot through one of those frame houses such as you have described in Brownsville?—A. Certainly, it would go through any house; clear through and through, except, of course, brick houses or masonry houses.

Q. I will come to them later. Do you know what the penetration of the Krag-Jørgensen was as to brick?—A. No, sir; they generally just put it down as to oak and pine.

Q. Yes; and sand?—A. And sand.

Q. And metal, do they not?—A. Sometimes they put it in for metal.

Q. Let me see if I can refresh your recollection about that. Do you know what the effect of a bullet would be fired out of the Krag-Jørgensen rifle at short range, say at 50 or 100 yards, on a horse—whether or not a bullet fired out of a Krag with the full charge of powder, such as is used in battle, would go clear through a horse?—A. I should suppose it would; I do not know.

Q. You never tried that?—A. No, sir. I should suppose it would.

Q. If you were told that a bullet fired into a horse killed the horse, and went in on one side and did not come out the other, but lodged somewhere in the horse, would you think that it was fired out of a Krag rifle?—A. I would think there was some very unusual circumstance, if it was fired from a Krag rifle and those conditions followed.

Q. Have you ever seen a tree that a bullet out of a Krag rifle struck, that you can recollect?—A. There was one instance that I recollect, but I have forgotten whether that was a Krag. I think it was a Krag, though. That was at Governors Island in 1899 or 1900—1899. A man shot a prisoner escaping, at less than 100 yards, and it went clear through the man's head and through a tree about 12 inches in diameter.

Q. What did it go through first?—A. It went through the man.

Q. It went through a man?—A. It went through his head.

Q. It went through his head, did it?—A. Yes, sir.

Q. And then went through a tree how many inches in diameter?—A. About 12 inches.

Q. What kind of a tree was it?—A. I don't know, sir. Just an ordinary tree there at Governors Island.

Q. You do not know what kind of wood?—A. No, sir.

Q. Then what became of the bullet after it went through the tree?—A. They never found it after that.

Q. Never found it?—A. No, sir.

Q. Is it not true that these bullets will shoot 2 or 3 miles—that they are expected to?—A. I would hardly say 2 or 3 miles. They certainly have a range of a mile and three-quarters, anyway.

Q. That is pretty nearly 2 miles. They have a range, and they are supposed to shoot with a degree of accuracy at that distance?—A. Yes, sir.

Q. And then they are supposed to go still farther, are they not?—A. Yes, sir; something like a mile and a quarter, giving the gun its maximum elevation.

Q. They do go 2 miles, do they not?—A. Somewhere about that.

Senator FORAKER. I want to put in this record, for the benefit of the examination, what is said as to the power of penetration of the Springfield new model rifle, in the description and rules for the management of the United States rifle, model of 1903, caliber .30, published March 3, 1904, revised April 18, 1906. This, I understand, is the latest publication of this character on this subject. It gives the penetration, and I want to put this in. It is published by the War Department and gives the power of penetration of the Springfield rifle, as follows:

Penetration.

Material.	Penetration at—			
	50 feet.	100 yards.	500 yards.	1,000 yards.
	Inches.	Inches.	Inches.	Inches.
White-pine butts, made of 1-inch boards placed 1 inch apart.....	55.9		18.9	9.4
Moist sand.....	11.8		18.8	12.0
Dry sand.....	6.7		10.6	9.9
Loam practically free from sand.....	25.6		25.2	16.0
Low steel plate, 0.484 inch thick.....	.35			
Low steel plate, 0.372 inch thick.....	Through.			
Low steel plate, 0.30 inch thick.....	Through.	Through.		
High steel plate, 0.381 inch thick.....	Through.			
High steel plate, 0.193 inch thick.....	Through.	Through.		
Thoroughly seasoned oak, across the grain.....	25.94			

Senator OVERMAN. Does it give the distances?

Senator FORAKER. The distance is 50 feet, but apparently it is the same at a hundred yards, because it is marked with ditto marks. The distance is also given at 500 yards, but I will simply refer to the shorter distances, because the testimony all shows that no shot was fired at a longer distance than a hundred yards that struck anything. It gives the penetration of moist sand as 11.8 inches; dry sand, 6.7 inches; loam practically free from sand, 25.6 inches; low steel plate 0.484 inch thick, 0.35 inch; low steel plate, 0.30 inch thick, it would go clear through it; high steel plate, 0.381 inch thick, it would go clear through it; high steel plate, 0.193, it would go clear through it. Thoroughly seasoned oak, across the grain, penetration 25.94 inches.

Now, if you were told that a bullet had been taken out of some place in a house, and it was shown that it had lodged at that place after it had passed through such an outside wall as you have described—the Cowen house—through such an outside wall and one inside wall of about the same general character and then had lodged without showing a penetration of more than 4 inches at the outside, including the walls it passed through, would you or not think that had been fired out of a Krag-Jørgensen rifle, knowing what you do know about its penetration?—A. No; I would not think so unless there was something very defective about the bullet.

By Senator OVERMAN:

Q. Suppose there had been some upright timbers in each wall which it had penetrated?—A. Of course that would impede it to a certain extent, but even then those joists, those stringpieces that are put in there, they are never over 2 by 4, and that would only give it 4 inches.

By Senator FORAKER:

Q. Assuming that the testimony shows, as it does in this case that I have in mind, that it did not go through any pieces, but went between the studdings, between the outside weatherboarding and the inside ceiling, so that there was nothing to impede it except the thickness of the weatherboarding and the thickness of the ceiling, and then the interior wall, would you still think, knowing what you do of the power and penetration of a Krag-Jørgensen, that it would go through much more than I have indicated?—A. Yes, sir.

Q. And if you found that the bullet had not gone through more than 4 or 5 or 6, or even 10 inches of such material, you would think it was not a Krag-Jørgensen?—A. Yes, sir.

Q. And that as the Springfield has a still higher penetration, you would think it was not fired from a Springfield?—A. Yes, sir.

Senator FOSTER. In this connection, will you ask him about the Winchester also upon the same lines.

By Senator FORAKER:

Q. The Winchester is a different kind of rifle in many respects. Are you familiar with the Winchester?—A. No, sir.

Q. You have never used it?—A. No, sir.

Q. The Army has never been armed with it?—A. No, sir; the only Winchesters I have ever seen were those we found in Cuba and the Philippines.

Q. Are you familiar with the kind of guns the Spaniards used in the Philippines? Did you serve in the Philippine Islands?—A. Yes, sir.

Q. Are you familiar with the Mauser rifle?—A. Yes, sir.

Q. That was used by the Spaniards?—A. Yes, sir; the Mauser and Mannlicher and the Remington.

Q. Were there not a good many of those Mausers in the Philippine Islands?—A. Yes, sir; a great many.

Q. Can you tell what the caliber of the Mauser that was in common use there was?—A. About .27, I think.

Q. To be accurate, twenty-seven hundredths and six-tenths of a hundred, or 0.276, was it not?—A. I believe so, a little over 0.27.

Q. It was 7 millimeters?—A. Yes, sir.

Q. Tell us whether or not our No. .30 could be fired and was actually fired out of that Mauser with its caliber of .276?—A. Yes, sir; they used not only to ream them out, but then the lands would get worn so that one of our .30 caliber bullets could be fired out of it very easily.

Q. That is, the lands of the Mauser would become worn with firing?—A. Yes, sir.

Q. That brings me to our own rifles. You have had little experience with the Springfield, but a good deal, as I understand, with the Krag. State whether or not the lands of the Krag do become worn or eroded, if that is the proper term to use, by firing these steel-jacketed bullets out of them.—A. Yes, sir. When we came back from the Philippines in 1903 the rifles used in my company had been in use over in the Philippines for about three years—two years and a half, anyway—and the first sergeant called my attention one day to the fact that he could take a bullet and drop it down the muzzle of the rifle, the lands being worn so—in other words, that they would not engage the bullet at all, and on that basis I put in an application and got new rifles for the men.

Q. You made a requisition for new rifles?—A. Yes, sir.

Q. What had happened to those lands except that they were worn by constant firing?—A. That was all; just the firing.

Q. Nothing else?—A. No, sir.

Q. How many times had these guns probably been fired?—A. Oh, probably several hundred; a couple of hundred times.

Q. Well, now, is there any difference that you know of between the lands of a Krag-Jørgensen and the lands of a new model Springfield, so far as the material is concerned?—A. No, sir; I don't know of any.

Q. That is, they are both steel?—A. They are both steel; yes, sir.

Q. And if when our new No. .30 caliber steel-jacketed bullets drag on the lands so as to make marks on the bullets, what is the effect on the lands?—A. To wear them down.

Q. So that there would come a time when the guns would not make any mark on the bullets, on the steel jacket?—A. Undoubtedly.

Q. That is your experience?—A. Yes, sir.

Q. Now, how many times would the Krag—I speak of that because you are familiar with that—have to be fired to wear the lands so much that they would not mark the metal jacket?—A. Well, as I said, I don't know how long these guns that I spoke of had been in that condition, because we were on the transport quite a while, but they had certainly been fired from 150 to 200 times, possibly a little less and possibly a little more.

Q. Then with the firing of two or three hundred steel-jacketed bullets out of one of these guns, your experience is such that you would judge that it would wear down the lands so that they would not mark the bullets?—A. Yes, sir.

Q. Now, if you were furnished with a bullet that had distinct marks of the lands, a rather deep impression—now, I want those bullets from the War Department. Have we got them here?

Senator WARNER. They are not here.

By Senator FORAKER:

Q. Then I will have to describe this for you. If you were shown a bullet that had marks of that character on it, would you or would you not think it had been fired out of a gun that had been fired three or four hundred times?—A. No, sir; it would either be a brand new gun or else a gun of a smaller caliber, that is all.

Q. That is, if one of our .30 bullets, steel jacketed, should be fired out of a Mauser of only 7 millimeters diameter, or 0.276, the result would be to mark the steel jacket with the mark of the lands in that way?—A. Yes, sir.

Q. Now, is it or is it not true that the deeper the marks of the lands on the bullet the less the velocity of the bullet and, consequently, the less the penetration of the bullet?—A. Yes, sir; of course that retards it.

Q. So that a gun of smaller caliber, if a bullet had been fired out of it, the lands cutting into this steel jacket would retard it so that it might not go through 55 inches of pine when it would reach its destination?—A. Yes, sir.

Q. And if you should find a bullet that was seemingly of this general character, fired out of a gun, with these distinct marks, the bullet having made a penetration of only 3 or 4 or 5 inches at the outside, through pine lumber, would you or not conclude that something of that kind had impeded its progress if you were told that it had been fired out of a high-power gun?—A. That would be the natural supposition.

By Senator FOSTER: -

Q. Right here I want to ask a question. Do I understand you to say, Captain, that the steel-jacketed bullets used in the Springfield rifle can be used in the Krag-Jørgensen?—A. In the Springfield; yes, sir; it is the same caliber. Now, there might be a difference in the length of the chamber.

By Senator FORAKER:

Q. I am coming to that. I was asking about the use of the Krag cartridge in the Mauser. When you pick up a bullet that has been fired, there is no difference between the bullet that is found in the Krag cartridge and the bullet that is found in the Springfield cartridge, is there?—A. There is no difference in the bullets. There is in the shell.

Q. I mean in the bullet.—A. No, sir.

Q. So that merely finding a bullet sticking in the wall, that looks like a Springfield bullet, and is like it in all general appearances, including weight, that fact would not necessarily indicate, standing by itself, that it had been fired out of a Springfield rifle?—A. No, sir.

Q. Now, the cartridge used in the Springfield rifle is longer, is it not, than the cartridge used in the Krag?—A. I don't know whether it is or not. I believe it is a little bit longer.

Q. You do not know so much about the Springfield. For that reason I did not intend to examine you about that, but I only intended to call attention to that.—A. Yes, sir.

Q. Now, I want, for the benefit of the committee, to show the difference between twenty-seven one hundredths and six-tenths of a hundred, or 0.276 and 0.30.

Senator OVERMAN. Is it your contention that the bullets might have been fired out of a Mauser?

Senator FORAKER. I will show what they were fired out of before we get done with it. I want to lay some premises. Are you familiar with the micrometer?—A. Yes, sir.

Q. That is what you measure the caliber of a gun with, is it not?—A. Yes, sir.

Q. Can you set this micrometer so it will show two and six-tenths hundredths of an inch?

(The micrometer was set to show the measurements indicated and exhibited to the members of the committee.)

Senator FORAKER. Gentlemen of the committee can see, by looking at that, the difference between the diameter of a .30 caliber bullet and the bullet that is fired out of a Mauser. You can see how very small is the difference.

Senator OVERMAN. Do you know what the penetration of the Mauser is, Senator?

Senator FORAKER. No; I do not.

By Senator OVERMAN:

Q. Captain, do you know?—A. No; it is very nearly the same as the old Krag. Nearly all of those nations keep up about the same penetration.

By Senator PETTUS:

Q. Captain, do you know what bullets could be fired out of this new Springfield rifle other than the ammunition prepared for it?—A. I don't know, sir. I am not thoroughly conversant with the new Springfield, because I have left the company duty and gone on staff duty instead. I am not thoroughly conversant with the new Springfield.

By Senator OVERMAN:

Q. I understand you to say that if a bullet was fired from the Mauser, it would have the same effect as to its penetration as if it was fired from the Springfield rifle through these houses, as you have described?—A. In other words, it would not make any difference whether it was fired from a Mauser or a Krag?

Q. Yes.—A. I should not think so. It would be practically the same thing.

Senator FORAKER. I believe that is all I think of at present to ask the Captain.

By Senator WARNER:

Q. Captain, as I understand, you do not pretend to have any expert knowledge with reference to the Springfield?—A. No, sir.

Q. And you have gone to a very considerable length into the examination as to the effect of a bullet discharged out of the Krag rifle?—A. Yes, sir.

Q. You used that in the Spanish-American war and for some years afterward?—A. Yes, sir; in the Philippines.

Q. And you are also familiar with the Mauser?—A. Yes, sir.

Q. And a bullet discharged out of a Mauser, as I understand, would have practically the same effect as to penetration as though discharged out of a Krag?—A. That is my impression which I am giving you.

Q. So whatever you have said about the penetration of a bullet of a Krag would apply, as you understand it, to the penetration of a bullet fired out of a Mauser?—A. Yes, sir.

Q. At the same range?—A. Yes, sir.

Q. Now, you have spoken—A. I should like to say one thing, Senator, in reference to that. Do you mean a Mauser bullet fired out of a Mauser rifle, whether it would have the same penetration as a Krag bullet fired out of a Krag?

Q. Yes; that is what I am speaking of.—A. Yes, sir.

Q. Now, you have spoken of some difficulties there at Brownsville when you were stationed there.—A. Yes, sir.

Q. Do you speak of that from knowledge or by hearsay?—A. Both, sir.

Q. Which one of actual knowledge?—A. Do you mean of actually seeing the men?

Q. Yes.—A. Well, I know of Cyzyack and Rappe. I know that actually, because I saw Cyzyack when he was brought in; had quite a gash cut over his head.

Q. You saw him with a gash cut over his head. Did you see the occurrence itself?—A. No, sir.

Q. You do not know what led up to that?—A. No, sir.

Q. What his conduct was?—A. No, sir.

Q. What provocation he had given?—A. No, sir.

Q. Whether he had resisted arrest or not?—A. No, sir.

Q. You know nothing about that?—A. No, sir.

Q. Now, you have given several other instances here. Was either of those within your own personal knowledge?—A. You mean if I actually saw the occurrence myself?

Q. Yes, sir.—A. No, sir.

Q. Not one?—A. They were simply the result of an investigation that I made in the case—that is, in reference to the men of my own company.

Q. You spoke of a soldier who was arrested at the gate of the fort?—A. Yes, sir.

By Senator OVERMAN:

Q. One minute there. You said you made an investigation. Was that an ex parte investigation?—A. Yes, sir. It was one that I was required to make, referring to my own soldiers.

Q. You only examined your own soldiers?—A. Yes, sir.

Q. You did not go out in the town and examine witnesses?—A. Oh, I went out and made an investigation down town as far as I could, by talking to the policemen.

Q. Did you have the witnesses on the other side?—A. Not sworn testimony at all.

Q. Hearsay?—A. Entirely.

By Senator FORAKER:

Q. But it was an official investigation?—A. An official investigation, ordered by the post commander.

By Senator WARNER:

Q. You have spoken of a man named Bryan who was shot in the hip.—A. Yes, sir.

Q. Where was Bryan when he was shot?—A. Down town somewhere.

Q. Where were you?—A. I was up at the post.

Q. Do you know what part of the town Bryan was in?—A. Yes, sir; down near the market, I think.

Q. What house was he in?—A. The White Elephant.

Q. What was that?—A. A saloon.

Q. Do you know of your own knowledge what he was doing?—A. No, sir.

Q. Do you know whether he was drinking?—A. No, sir.

Q. Do you know what cause he had given for arrest?—A. No, sir.

Q. You say he was shot?—A. Yes, sir.

Q. By whom?—A. By one of the policemen down there. I know that he was afterwards tried by the civil courts and acquitted.

Q. He was acquitted?—A. Yes, sir.

Q. But you don't know of your own knowledge what provocation he gave?—A. Not at all.

Senator FOSTER. Who was tried—the officer?

Senator WARNER. Yes; the officer.

Q. You also spoke of the man Neff.—A. Yes, sir.

Q. What of that?—A. Of course I was not present at that case, either, but simply investigated the case and found that it was as it was stated.

Q. Where was Neff?—A. Neff was a soldier of my company.

Q. Where was he?—A. He was down at the custom-house; he had just come from across the river.

Q. At the custom-house?—A. Yes, sir.

Q. He had come from Matamoros?—A. Yes, sir.

Q. Was he intoxicated?—A. No, sir.

Q. Did you see him?—A. I saw him shortly afterwards. He was not a drinking man at all.

Q. And he was assaulted by whom?—A. By one of the policemen; I don't know which one it was.

Q. You know nothing of the facts attending that either?—A. I know simply what was reported to me by the police and what I found out to be the facts in the case.

Q. Did the police report to you the same as the officer?—A. You mean the police officer?

Q. Yes.—A. Why, yes.

Q. They reported that they shot him for nothing?—A. I don't mean that part. He was not shot. He was struck over the head.

Q. But they struck him over the head for nothing?—A. No, sir; they said they had nothing to say; that he refused to open his hand, and that is why they struck him.

Q. The man held his hand up over his head?—A. Yes, sir.

Q. But as to all these cases of which you have spoken here and given the details about them, the fact is, Captain, is it not, that you have no personal knowledge of either one of the instances?—A. None of them; no, sir; except as I stated here, those which I investigated.

Q. You were requested by your superior officer to make a statement of what you knew about Brownsville and what you saw there?—A. I was directed.

Q. And you sat down and wrote that out yourself?—A. Yes, sir.

Q. And signed it and swore to it?—A. Yes, sir.

Q. You intended to give all the information you had bearing upon Brownsville at that time, did you not?—A. No, sir; he asked me simply if I knew anything relative to the spirit in which the people in Brownsville received the order for the Twenty-fifth Infantry to come to be stationed there, and I told him just exactly what I knew.

Q. You intended, then, to give all the information you had as to the spirit with which the people of Brownsville received the Twenty-fifth Infantry?—A. At that time; yes, sir.

Q. And you stated it and wrote it out yourself?—A. Yes, sir.

Q. For the information of the Department?—A. Yes, sir.

Q. To-day you say that Tillman said that they would have the colored troops driven out of there in three weeks?—A. Yes, sir.

Q. Why didn't you put that in your affidavit?—A. I have practically stated the same thing in the affidavit. I said a short time.

Let me see:

Tillman, a citizen of Brownsville, and owning a large grocery store opposite Crixell Brothers, in a conversation with me expressed his doubts about the advisability of sending colored troops to Brownsville.

That is all you said.—A. No, sir; there is some more there.

Q. This is what you said:

He further said, to the best of my recollection at this date, that it would not be long before they had white troops back again.

A. Yes, sir.

Q. Is that what he said?—A. At this time, Senator, that is the best of my recollection, just as I have stated it this morning.

Q. Well, but this was given the 11th day of September, 1906.—A. Yes, sir.

Q. When you sat down and wrote this out?—A. Yes, sir.

Q. Did you then give what your recollection was of just what Tillman said?—A. Just exactly my recollection—there were several people in this store at that time, and my recollection at that time was just as I have stated.

Q. Yes; but what I am asking is, not who was present, but what Tillman said.—A. That was my recollection; yes, sir.

Q. And you have also stated that the better class of citizens of Brownsville expressed their doubt as to the propriety of sending the colored troops there?—A. Yes, sir.

Q. When was it that Doctor Combe became mayor of Brownsville?—A. Some time in 1905, I think; I don't know exactly. He was elected and he was reelected; elected, I think, some time in 1905. I am not sure.

Q. And, as I understand, he worked great reforms there?—A. Well, he did the best he could, and did make an improvement in the town.

Q. Well, now, "did the best he could." What improvement did he make there?—A. He cleaned up the streets, uniformed the police,

so you could tell who a policeman was. He had a regular patrol in the streets.

Q. How could you tell a policeman?—A. By his uniform.

Q. And that uniform was blue?—A. Blue.

Q. And what kind of a hat did he wear?—A. Wore a soft hat, a felt hat.

Q. And a badge?—A. Yes, sir.

Q. When you speak of the blue, how would it compare in color with the army blue?—A. About the same.

Q. And he changed the police, you say, in some instances?—A. I know two or three men. There was a man by the name—I have forgotten his name now; he is a cripple, crippled in one foot, and he used to be known as a bad man down there in Texas, and they took him on the police force, and he was the man that hounded down a lot of the so-called desperadoes around that country—ran them down and brought them in. He was one of those reformed bad men, and he was very good to the soldiers. I know in several instances he brought the soldiers up to the post when they were drunk.

Q. And a very useful man?—A. A very useful man.

Q. Speaking of that, Captain, unfortunately soldiers would get drunk, would they not, sometimes?—A. Oh, they are very apt to do so, especially on pay day.

Q. And especially since the canteen has been abolished?—A. Yes, sir; especially so.

Q. Go out into town, get their money, and get drunk?—A. Get full of whisky.

Q. You say it was an easy matter for a soldier to get into trouble at Brownsville. Do you know any place out in the West where it is not a pretty easy matter for a man to get into trouble if he is around seeking it?—A. No, sir; that is very true. You can find it anywhere if you are looking for it.

By Senator **BULKELEY**:

Q. That is not confined to the West entirely, is it?—A. No, sir.

By Senator **WARNER**:

Q. At what other points have you been stationed?—A. Since I have been in the service?

Q. Yes.—A. I was stationed at Governors Island, stationed at the Presidio, San Francisco, Benicia Barracks, San Diego Barracks, Cal.; also in Cuba, in the Philippine Islands, Fort Sam Houston, Fort Brown, Fort Ringgold. I think that is about all.

Q. Fort Ringgold is near what town?—A. Rio Grande City.

Q. It is not uncommon to see people carrying pistols down there, is it?—A. No, sir; all through Texas you see a good many pistols.

Q. A good many people carrying pistols?—A. Not of course up around San Antonio, but down in the Mexican towns, all those border towns are a good deal Mexican in population, and a man feels safer when he has a pistol down that way.

Q. And by saying that you do not mean that the man who carried a pistol was a desperado?—A. Not necessarily.

Q. Because the good men want to be protected from the desperadoes. Well, now, Matamoros was rather a bad place?—A. It is not *an especially good place*.

Q. Did your troops go across to Matamoros?—A. Yes, sir; they used to go across nearly any time, quite frequently.

Q. It was not such a bad place that you prohibited the troops from going over there?—A. It would not have done much good if you had prohibited them.

Q. I ask you if you did?—A. No, sir. There were two men in my company that I prohibited from going across there—took pains to see that they did not.

Q. Why?—A. Because one time they had gotten in some row across there with the chief of police, and one man was sentenced to ten years down at Saltillo, breaking rock down there.

Q. One of your men?—A. Yes, sir. And the American consul down there, Mr. Merrill T. Griffith, took the case up with President Diaz, and finally the man got off with a 10-peso fine.

Q. That was a peso for each year?—A. Yes, sir.

Q. Mayor Combe had been a major, had he not, a surgeon in the Army?—A. Yes, sir.

Q. You say that the police that were there before Major Combe could not read or write the English language?—A. I say when I went there in January, 1904, there were about nine out of the ten that could not read.

Q. How did you happen to know that?—A. Because these things were reported to me by my first sergeant and quartermaster's sergeant, and the way the police had been handling the men of my company it was my business to see that they had a fair deal, and that if they were the ones that were doing wrong they should be punished for it.

Q. But wait, Captain; get back to the question. Did you judge that there were nine out of ten of the policemen who could not read or write the English language because one of your sergeants had reported that fact?—A. No, sir; I saw them myself.

Q. Could you tell by seeing a man whether he could read or write?—A. No, sir; but I can talk the Spanish language, and I knew that they could not speak English. I tried them in English, and they could not understand what you wanted at all, and I think I probably speak English well enough to be understood, and I always had to talk to them in Spanish.

Q. Do I understand you now to state that nine out of the ten policemen in Brownsville before Mayor Combe took hold there could not speak the English language?—A. Yes, sir.

Q. And they were on the police force?—A. By speaking it, Senator. I mean to be able to hold an ordinary reasonable conversation. No doubt they might be able to say "yes" or "no" or "I no understand," but I mean to be able to speak ordinarily.

Q. If a person would go up to him and say, "Some one has broken into my house," he could not understand him?—A. I don't think he would understand him; no, sir.

Q. They had that kind of policemen?—A. Yes, sir; they had those policemen in January, 1904.

Q. And that continued how long?—A. I don't know, sir.

Q. Don't you think you are a little high in your percentage, Captain?—A. No, sir; I do not think so. You see, there were not many policemen in that town.

Q. Well, I know, but nine out of ten—A. Well, I don't think there were ten or a dozen respectable white men who would have taken the position as policeman.

Q. Now, that is an opinion you have given, Captain?—A. Yes, sir.

Q. Upon what do you base that opinion?—A. On the general tone, the whole proposition when I went down there. There was not any railroad at all there at that time.

Q. But let us get back—A. I am just stating why I made that remark. The people that came in there, a great many drummers came in there and got out as soon as they could, and the most of the people that settled down there, some of them moved there and had property, and there were twelve or fourteen very nice families down there that lived there, respectable people in every way, who would pass in any community in any city; but the majority of the people down there were of a very low order of intelligence.

Q. Now, Captain, there were 6,000 inhabitants there?—A. About that, I should judge.

Q. And of the 5,000 inhabitants your estimate of Brownsville would be that there were only twelve or fourteen families that could pass muster in an ordinary well-governed city?—A. Well, I said that there would be amongst the first-class people, in a good reasonable—

Q. Possibly, being from the West, I do not understand just what you esteem first-class people?—A. Well, I am from the West, too, sir.

Q. What do you mean by first-class people?—A. I mean people that have some refinement at home and who knew what to do on different occasions; people that had some refinement about their homes, that is all.

Q. By people who had some refinement, do you mean people that had a piano in the house?—A. Not necessarily; no, sir.

Q. People that had a common-school education—that would be some refinement?—A. I mean people that were gentlemen and ladies.

Q. And people who were church members?—A. Well, that sometimes applies and sometimes it does not.

Q. But I am trying to get at what you mean.—A. I think that I have stated that matter. I mean people that had some of the natural, innate refinement of ladies and gentlemen.

Q. Only twelve or fourteen such families there?—A. Yes, sir; that is all in Brownsville.

Q. Now I will have to get you, if you can—because that is an astonishing statement—to tell us what you mean by innate refinement?—A. Senator, that is something that is very hard to define, but is very easily seen and recognized by a person that knows it.

Q. Recognized by coming in contact with them?—A. Yes, sir.

Q. And you came in contact with the families at Brownsville?—A. I think I knew nearly everybody. I was married down in Brownsville. My wife was a Los Angeles girl, and I was married down there, and she had a good many friends, and I went around in Brownsville quite a little, and I think I saw about all the people in Brownsville and I know them well.

Q. Assuming there were about 6,000 people, there would be possibly in the neighborhood of a thousand families.—A. Well, I don't know. Some of those Mexican families run pretty high, sir.

Q. I do not expect you to know certainly.—A. No, sir.

Q. Now, you say Mayor Combe was a most excellent gentleman.—

A. In every way.

Q. And a good official?—A. Yes, sir; and he was always willing to help us in every way that he could.

Q. He was a friend of the soldiers, you understood?—A. Yes, sir.

Q. Your knowledge of Major Combe was that he did not share in this feeling of the lower classes?—A. I don't think so at all. I think he tried to do everything that he possibly could.

Q. He had been a soldier himself?—A. Yes, sir; and he had the kindest feeling toward all the officers and men at the post.

Q. Was he the surgeon in your regiment?—A. Not in my regiment, but—

Q. He was post surgeon?—A. His brother, Joe Combe, was a contract surgeon for a while. Major Combe was surgeon over in the Philippines, and a good many of us knew him over there.

Q. You knew Major Kelly down there, didn't you?—A. Yes, sir.

Q. What position did he hold there?—A. He was one of the representative men there in town.

Q. A reliable man?—A. Perfectly, sir.

Q. You had a talk with him?—A. No, sir; I don't remember ever talking with him at all on the subject.

Q. He was a civil war veteran, was he not?—A. Yes, sir.

Q. Did you see any manifestations on his part of ill will against the soldiers, either black or white?—A. No, sir; I never talked this matter over with him at all. Owing to a little personal matter that came up some six or eight months before that I did not see very much of Captain Kelly.

Q. I don't care about going into that.—A. I am just telling why.

Q. But his general standing there.—A. Was good; excellent.

Q. Now, when you had this practice back of the officers' quarters there, down the lagoon, that was with the Krag rifle?—A. Yes, sir.

Q. And when was that?—A. That, I think, was in 1904, when we first went there, and 1905. We had two years there, and it was stopped at the end of 1905.

Q. You stopped it because there was complaint that the bullets went across over into Mexico?—A. Yes, sir.

Q. And endangered some citizens there?—A. Yes, sir.

Q. Then all of 1906, whatever practice there was there was with the reduced ammunition?—A. I don't remember of there being any practice there at all.

Q. No practice whatever?—A. I don't think so. There may have been some target practice, but I don't think so.

Q. You had abandoned it because a stray bullet might go across into Mexico?—A. Yes, sir.

Q. That was abandoned by reason of the complaint of some people over in Mexico, was it not?—A. Yes, sir; it came through the American consul there.

Q. And that was stopped? Now the rifle range, for practice at Fort Brown, was away how many miles?—A. Away from the post?

Q. Yes.—A. Twenty-two miles; that was the new range which they had just bought down at Point Ysobel, but formerly it was 9 miles out at a place called Casa Blanca.

Q. Never mind that. I am asking about last year.—A. In 1906 they fired at Point Ysobel, and in 1904 and 1905 they fired for the long ranges out at this place 9 miles out from the post.

By Senator FORAKER:

Q. Nineteen hundred and six was the first year at Point Ysobel, was it?—A. Yes, sir.

By Senator WARNER:

Q. Point Ysobel was out how far?—A. Twenty-two miles.

Q. Now, you were asked something about this firing there near the lagoon—about the shells—and you say some of them might have gotten lost in the grass?—A. Yes, sir.

Q. That would be exploded shells, would it not?—A. Yes, sir; and it might be some of the others; but the chances are it would be just the shells.

Q. You were in command of that post part of the time?—A. Yes, sir.

Q. The Twenty-sixth Infantry?—A. Two months.

Q. That was a pretty cleanly, orderly regiment, was it not?—A. We think it is.

Q. Well, you have been in the Army some time?—A. Yes, sir.

Q. You were capable of judging?—A. Yes, sir.

Q. Did you leave around the quarters there cartridge shells or anything of the kind, scattered around the quarters?—A. No, sir; I am sure they did not. I left before that, but I am sure the place was thoroughly policed and cleaned up, so that the troops coming in would find clean places to go into.

Q. That was the character of the regiment and the officers?—A. That was the character of the regiment and the officers; yes, sir.

Q. Now, you have heard at some time of shots on the road outside of the reservation. Will you tell us, Captain, if you can, by looking at the map—you see the cavalry stable there?—A. Yes, sir.

Q. And the bakery?—A. Yes, sir.

Q. There is a road that runs through the reservation there, does it not?—A. Yes, sir.

Q. Running between those two?—A. Yes, sir; that runs into the reservation.

Q. Now, this road outside the reservation, about how far is that?—

A. Well, the road I was speaking of runs right up here [indicating] it is just at the left of that red line.

Q. You are speaking of what we call the garrison road?—A. Yes, sir.

Senator LODGE. What you mean, Senator, is what is called the county road.

Senator WARNER. Yes; I want the road called the county road.

Senator LODGE. That is not shown on the map.

A. No; it was this road up around this place [indicating].

By Senator WARNER:

Q. That is what we call the garrison road.—A. It turned and ran around there.

Q. How far was that out beyond?—A. Five or six hundred yards.

By Senator LODGE:

Q. From here to here (indicating).—A. Yes, sir.

By Senator WARNER:

Q. From the road running through the garrison?—A. I think that is it. I never noticed it particularly, but that is my impression. It may be more or it may be less.

By Senator LODGE:

Q. It is a public road?—A. It is a public road.

Q. Where does it run?—A. It goes down that way to the river road. It goes down off to the Jugeau's ranch and other ranches.

Q. Is it a dirt road?—A. A dirt road.

By Senator WARNER:

Q. When you speak of up the river or down the river, Senator Foraker and I want to know in what direction you mean by that?—A. Up the river is against the current and down the river is with the current.

Q. I know; but which way is the current?—A. The current runs down that way [indicating].

Q. That is, for instance, if we commence with the river here in the town that is marked there, it goes out toward the Rio Grande?—A. Yes, sir; this is up, and this is down [indicating].

By Senator OVERMAN:

Q. What is the depth of that river there?—A. It varies. In some places in the center of the river it will run sometimes as deep as 15 or 20 feet, or as deep as 30 feet.

Q. How is the river crossed from Matamoras?—A. They have a big barge with a wire cable across it for horses, and about six rowboats, and charge 6 cents Mexican to go across.

By Senator LODGE:

Q. No bridge or ford?—A. No, sir.

By Senator FORAKER:

Q. Is there no regular ferryboat?—A. No, sir; just this barge and these rowboats.

By Senator OVERMAN:

Q. The passengers go across on the barge and on the small boats?—A. They go across on the small boats entirely, and the barge is for heavy things.

By Senator FORAKER:

Q. For fear I forget it later, what State were you from?—A. Well, I was born in Maryland.

Q. From what State were you appointed to West Point?—A. From Chicago.

Q. From Illinois?—A. Yes, sir.

Q. You spoke of commanding Company K at one time?—A. Yes, sir.

Q. At Fort Brown?—A. Yes, sir.

Q. Was that your company?—A. That was my own company; yes, sir.

Q. Did you command that until you left there June 1?—A. Yes, sir.

Q. Do you know whether or not there were any charges made

against men connected with Company K of selling clothing or ammunition or guns at Fort Brown?—A. There was an ex-soldier, a man by the name of Clay, from that company who was up, and I was a witness in that case down in Galveston against Clay.

Q. What was the charge against him?—A. Receiving and buying clothes.

Q. From whom?—A. From different soldiers.

Q. What was it he was charged with buying or with receiving?—

A. Buying these Government clothes and having in his possession Government clothes.

Q. What articles of clothing?—A. Overcoats, trousers, blouses, shoes, blankets, caps, and things like that.

Q. Coats?—A. Yes, sir.

Q. What kind of uniform was this?—A. Olive drab mostly, some blue.

Q. Khaki, you mean?—A. Yes, sir.

Q. He was charged with that?—A. Yes, sir.

Q. What was established in that case?—A. Well, the case is to be tried again in Austin in May. He was simply indicted to appear before the May session.

Q. You testified at Galveston?—A. Yes, sir.

Q. Was that a civil trial?—A. Yes, sir.

Q. What was the nature of your testimony there? What did you know about the truth of the charges against him?—A. Simply that it was reported to me while I was at Ringgold. I went up to Ringgold for target practice one year there, and that was for the record shooting. It was reported to me while I was up there that this man Clay was going into the business of selling and buying clothes there and also influencing men to desert. So I wrote a letter to the post adjutant, Lieutenant Richardson, laying the whole matter before him and requesting that he get a search warrant and go down and search Clay's house. So it was that I was called to Galveston as to what I knew.

Q. Did he go down and search Clay's house?—A. No, sir; they did not.

Q. Do you know what he really did have over there?—A. Well, he was found with these things with him at Austin. He had taken them up with another man in a box and was going to dispose of them there. He was caught there by the police with the goods actually with him.

Q. And with these various articles you have mentioned?—A. Yes, sir.

Q. Overcoats, blouses, and trousers?—A. Yes, sir.

Q. And general clothing?—A. Yes, sir.

Q. Well, do you know of his having any guns or ammunition or anything of that sort?—A. I don't know about that; no, sir.

Q. When was this brought up?—A. He was caught, I think, last September or October; I have forgotten.

Q. Of 1906?—A. 1906; yes, sir.

Q. And you went to Galveston and testified against him in May?—A. In January, 1907.

Q. Did that trial come to nothing?—A. Well, they simply bound him over to appear.

Q. That was a preliminary hearing?—A. Yes, sir.

Q. They bound him over to appear where?—A. I think he is to be tried in Austin in May. I don't know whether they changed it or not. Somebody told me just before I left Sam Houston that they were going to try the case down at Brownsville, but I don't know.

By Senator WARNER:

Q. Who was this man Clay?—A. An ex-soldier of Company K, Twenty-sixth Infantry.

Q. You heard nothing of his having any ammunition or guns—it was simply clothing?—A. That is all, sir.

Q. Was that second-hand, discarded clothing or new clothing?—A. New clothing, mostly.

Q. New clothing that had been taken away from the quartermaster?—A. No, sir; that had just been drawn, probably, and sold.

Q. By some members of your company?—A. No, sir: not especially my company, but all of the companies.

Q. Men of the command?—A. Of the command; yes, sir.

By Senator FORAKER:

Q. That is, they would draw it and have it charged to them and then sell it?—A. They would sell it.

By Senator WARNER:

Q. It was the regular issue of clothing to the soldiers?—A. Yes, sir; they would draw a blanket costing them \$3.49 and sell it for a dollar.

Q. That was probably to get some whisky or something of that kind, was it not?—A. Yes, sir.

Q. Was not that the purpose of it?—A. Presumably; yes, sir; I think it was.

By Senator BULKELEY:

Q. They wanted spending money?—A. Wanted spending money; yes, sir.

By Senator FORAKER:

Q. Whatever the purpose was, the result was that the clothing got out?—A. That is the way; yes, sir.

By Senator OVERMAN:

Q. Ammunition sometimes got out too, didn't it?—A. Well, when we first went there I think it did.

By Senator FORAKER:

Q. How would that get out?—A. The men carry ten cartridges in their belts. We try to keep track of those ten all the time, and if a man would lose a cartridge we would charge it up to him, and if he became one of those chronic losers we would try him; but he would be charged with the cartridge. A cartridge is worth about two and a half or three cents, and they would issue him a new one. Well, they would probably give them away, if they were only worth two and a half or three cents, or drop them out of their belts. Of course that does not happen so much now with the clip, because the clip will hold the cartridges, and a man dropping a whole clip, his at-

tention will be called to it. Then they have the guard cartridges now, too. It is a little different cartridge.

By Senator WARNER:

Q. If he should lose a clip, you would charge him with that?—A. Charge him for the whole five.

Q. And if it became chronic with him you would try him?—A. Try him, too.

Q. But not until it became chronic?—A. Well, until the thing had been reported to you two or three times, until you would find that he was either careless or purposely got rid of the cartridges.

By Senator LODGE:

Q. Are the men apt to have odd cartridges in their possession?—A. A great many of them do. They pick them up different places. Sometimes they keep some cartridges—these men who, as we call it, buck for orderly. They keep them shined, one set, and they will have another set to use on rainy days, using the polished set for guard mount.

By Senator WARNER:

Q. Explain that—what is meant by “bucking for orderly?”—A. The cleanest man on guard when they mount guard in the morning is picked out by the adjutant for the commanding officer’s orderly. He does not have to go on guard duty, and is only on duty practically from about 10 in the morning until about 12, and from 2 till about half past 4, and then he is allowed to go to his quarters. It is something that they all desire, and the men will clean up, and as the competition becomes closer and closer they get down to even quite small details, and the brass screw that is in the head of the bayonet, that will be polished, and they will get down to the point, some of these men, where they will even polish their cartridges. It takes quite a lot of work to keep those shined up, and they will sometimes have 10 extra cartridges which they will use for ordinary times, for drills, and keep these 10 nice ones that have already been polished up, keep them wrapped in canton flannel.

Q. That is, they use 10 cartridges for a rainy day and 10 for a sunshiny day?—A. Yes, sir.

Q. And have the extra cartridges around?—A. Yes, sir.

By Senator LODGE:

Q. The return of cartridges is never absolutely accurate, is it?—A. No, sir. We count all the loose ones, but you can not always be exact about that. You may have as many as 20,000 rounds on hand.

Q. They are usually returned in tens and hundreds are they not?—

A. No, sir; the chief of ordnance checks you up to the last one, but a man can always make some cartridges, because he is allowed so many to each man.

By Senator WARNER:

Q. What I was getting at, when he has his ten cartridges for the sunshiny day, that is his regular allowance of ten?—A. Yes, sir.

Q. Then he would have ten extra cartridges that he would pick up and accumulate, that would not be polished, for rainy days?—Yes, sir. I say there are men who do that. I don’t think the whole *company* does it, but some men.

Q. But they do have an opportunity, so that they have extra cartridges?—A. Yes, sir. When the cartridges are issued they open up a box and each man takes 20 and shoots them—that is, when they are on target practice—and it is very easy for a man to pick up 5 or 10 if he wants to. It is just as easy as it is for anybody else to get them.

Thereupon (at 1 o'clock and 5 minutes p. m.) the committee took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, and Overman.

TESTIMONY OF CAPT. D. W. KILBURN, U. S. ARMY—Continued.

By Senator WARNER:

Q. Captain, when you speak of the lands of a gun, what do you mean by that?—A. It is the raised places in the gun that cause the bullet to revolve and guide it more truly to its mark. There are alternate grooves and raised portions.

Q. Those grooves go around the barrel of the gun?—A. Yes, sir. They take one and one-half revolutions, I think, in the length of the rifle.

Q. And they cause what?—A. A rotary effect to the ball.

Q. Making the bullet more dangerous to start with, and add to the distance it will carry?—A. Yes, sir.

Q. You spoke of some of the guns—I think you said in Cuba, possibly—in which the lands were so worn that you could drop a bullet through the barrel?—A. That was in Brownsville; some of my own rifles.

Q. Those guns were, of course, unserviceable?—A. Yes, sir; the bullets would tumble and they would not carry nearly as far nor with the same accuracy.

Q. Where guns are issued to a company, say, about the 1st of April and they do not get their ammunition until along the middle of April, the 11th or 12th, with the ordinary practice in camp such as would be at Fort Niobrara or Fort Brown, would the lands of the gun wear smooth in such a case?—A. When they were not used at all?

Q. Where they had the ordinary use?—A. Oh, yes, sir; each shot, of course, wears the lands down.

Q. But would not the gun be comparatively new up until, say, the 1st of August?—A. It would depend entirely, Senator, on the number of shots. The wear of the lands depends on the number of shots.

Q. I am talking of ordinary use?—A. If you go through target practice, a man fires during target practice, I think, about 600 shots—that is, for record shooting—and if he is a poor shot he may fire twice the number in preliminary work.

Q. In what time?—A. During the three months of target practice. Each company is allowed a month.

Q. And would that wear the gun out?—A. Oh, yes; that would wear the gun.

Q. Then, these new Springfield rifles, at three months, with the ordinary practice in camp, would become useless?—A. Well, I would hardly say that. As I stated before I do not know so very much about the Springfield, but the greater the number of shots that were fired out of the rifle, the greater would be the work of that rifle.

Q. The Krag rifle you had, how long had that been in the service?—A. We had had them since the regiment was organized, February 2, 1901, landing in the Philippines the 23d of March, 1901. We were through with the Bellormino campaign, and down in Samar, and returned to the United States about September, 1903, and those rifles were worn then. I do not say all of them were.

Q. But they had been in service about three years?—A. Three years. We did not do any target practice at all. Everything had been just the shooting in actual campaigns.

Q. Do you know anything about the cleaning of a gun?—A. Yes, sir.

Q. About how long does it take to clean a gun?—A. Well, with the smokeless powder, to thoroughly clean a gun, it ought to take—that is, if a man has all the appliances and knows how to clean his gun—I should think, ten minutes.

By Senator LODGE:

Q. I suppose it makes some difference whether the gun is allowed to lie twenty-four hours, or is cleaned within a few hours?—A. Yes, sir; if it is cleaned right after shooting it can be done in practically a good deal less time, but at other times this nitro powder seems to eat in and leave spots on the inside of the barrel.

By Senator WARNER:

Q. That is, if a gun is allowed to remain twenty-four hours or so?—A. Yes, sir.

Q. But if cleaned within two or three hours afterwards it is a very easy matter?—A. Yes, sir.

Q. How many minutes would you say, if it was cleaned immediately afterwards?—A. I should say about eight or ten minutes. They have a preparation which can be bought at the post exchanges. I know we had one at Ringgold. I forget exactly the name of it. You dampen a rag and run it through; it is some special solvent for the nitro powder. I don't know exactly what it was. It was a special preparation put up by the Winchester people, and it seemed to clean the gun more rapidly and better than the others.

Q. And the more the lands of the gun are worn the easier it is to clean, is it not?—A. Well, I don't know. It would practically have the same surface to clean.

Q. It would be the same surface, but the grooves you would have to get in and the other would be the smooth surface?—A. Yes, sir; you would not have so deep into the grooves to get in. I should think it would be a hardly perceptible difference, though.

By Senator LODGE:

Q. If the gun is cleaned immediately, or within two or three hours after shooting, it is less difficult to clean with this smokeless powder than with the old powder, and it is more difficult to clean if it is allowed to stay twenty-four hours?—A. Yes, sir.

By Senator PETTUS:

Q. Captain, did I understand you to say that the new gun would not carry the ball as far as a gun that was worn?—A. I said that of course when the lands are perfectly new all pressure on the ball would serve to retard it to a certain extent up to a certain point.

Q. But does it not shut up the gas in there so as to allow none of it to escape?—A. Yes, sir; it does that. Of course, all these things are almost imperceptible differences, but when you come right down to the actual theoretical considerations, whether the amount of gas that is kept in, increasing the pressure, will overbalance the retardation of the bullet—

Q. I want your opinion as to which effect it would have.—A. I don't know whether you mean the gun being dirty or whether—

Q. A new gun cleaned or an old gun cleaned, which would carry the ball the farthest?—A. I think the new gun would.

By Senator LODGE:

Q. One question that I wanted to ask as to that matter of penetration. We were speaking about the bullet going through houses. I read a statement which is in evidence before the court-martial, page 162 of the printed War Department record:

"There was a single shot fired afterwards that struck the front of our house and just took off the top of the cornice of the wardrobe in our front room—in the room in which my wife and I sleep—and then ran along the ceiling about 2 feet, tearing the wall paper, then took an upward course, went through the ceiling, through the floor in the room upstairs, and then went through both walls, and that bullet is the one that hit the Catholic Church and struck the window where Father Smith's room is."—A. Yes, sir.

Q. You don't know whether that is the same bullet or not?—A. That is a mistake. I should have said probably the same bullet. Father Smith was with me, and we took the alignment of the holes, and they struck in about the same direction—[Extract from F. E. Starck's testimony.]

Now, that might have been from a high-power rifle, might it not?—A. Senator—

Q. I mean it is possible?—A. Yes; it is possible. It might be. It is hard to say what a bullet will do.

Q. I only meant that a high-power rifle bullet might do that?—A. Might do that; yes, sir.

By the CHAIRMAN:

Q. A high-power bullet is just as easily deflected, on striking some substance, as a low-power bullet, and perhaps more so, is it not?—A. Yes, sir; I think probably a high-power bullet would be more easily deflected.

By Senator LODGE:

Q. If it was fired into a little frame house?—A. Yes, sir. It might go all the way around the room.

Q. It might take a zigzag course and go through a large number of obstacles before it dropped?—A. Yes, sir.

By Senator FOSTER:

Q. When did you first go to Brownsville?—A. On January 25, 1904.

Q. And you remained there until when?—A. Until the 2d of June, 1906, barring eight months when I was away north.

Q. You became pretty well acquainted with the people of the town?—A. Yes, sir.

Q. And the character of the people of the town?—A. Yes, sir.

Q. During your stay there?—A. Yes, sir.

Q. What is the population of the town?—A. I should say about 6,000, I think.

Q. What proportion of the population is American and what portion is Mexican?—A. Well, Senator they grade off there, and a good many of the Mexicans are mixed up with the Americans. I should say three-fourths of those people, possibly more than that, were of Mexican extraction with Mexican blood in their veins.

Q. What proportion would you say is pure?—A. Pure Mexican?

Q. Pure Mexican.—A. Well, certainly over half.

Q. Now, what was the character of the white population, American or foreign?—A. There is a portion of the people there, the inhabitants, that are purely American in their ideas and thoughts and manners and everything else, but that is a very small proportion of the town, and the rest are, as I say, either mixed up in business and socially with the Mexicans, a good many of them having their friends among the Mexicans.

Q. Are a good many of the Mexicans, or those descended from the Mexicans, men and women of good character?—A. I do not say anything at all about their character; I think undoubtedly they are.

Q. Engaged in business, are they not?—A. Mr. Yturria may be mentioned as one of them.

Q. Are not a great many of the sons and daughters of the Mexicans down there educated?—A. Yes, sir.

Q. Well educated, and a great many of the girls accomplished?—A. I have never seen any of them except over in Matamoros. They rarely go out anywhere at all, but keep to themselves.

Q. These people are engaged in mercantile business, the Mexicans, some of them?—A. Yes, sir; own ranches and one thing and another like that.

Q. And the Americans, what kind of business are they engaged in?—A. Well, they are mostly connected with some bank or the custom-house, or something or other like that.

Q. How many banks are there in Brownsville?—A. Three, really, with Yturria's bank. That is a private bank. There is the First National and the Merchants' Bank.

Q. Are there any dry-goods stores?—A. Yes, sir; there are two or three good-sized stores there.

Q. Are they run by Americans or Mexicans?—A. One is run by an American—two are run by Americans and one is run by a Mexican. He is well out of the town, though, and caters mostly to the Mexican trade, although they have very nice things there.

Q. Are there any cordial relations between the Americans and the Mexicans?—A. A certain class of Americans do not mix with them very much; possibly more with the people across the river at Matamoros. We used to go over quite frequently.

Q. Are the officials of the town elected by the citizens of the town?—A. Yes, sir; I think so; in fact, I am sure of it. There are certain positions that are elective and others are appointive.

Q. Appointed by whom?—A. Appointed by the mayor.

Q. Does the ordinary Mexican, the pure Mexican, vote over there?—A. Yes, sir.

Q. *He is a citizen, is he?*—A. Yes, sir; he votes.

Q. Then out of that entire population you estimate that there were about twelve respectable families?—A. Well, I would hardly use the term "respectable." I think there are a good many others that are perfectly respectable, but what I mean is twelve families that you would like to bring into your home and to associate with.

Q. Do the young men there go to colleges and schools?—A. They have only one public school there and a convent.

Q. What I mean, are they sent away—any of them sent off to school?—A. Yes, sir; some of them, occasionally; about three boys that I know of in town that have gone away to school.

Q. You were there for nearly three years?—A. Yes, sir.

Q. You were treated well while you were there?—A. Yes, sir.

Q. Did you ever have any trouble or difficulty with any of the people personally?—A. No, sir; I don't know of any, except, as I said, purely a personal matter between one of the citizens there and myself seven or eight months ago.

Q. Were you subject to any insults or any unkind treatment owing to the fact that you were an officer of the Army?—A. Well, on one occasion I was.

Q. By whom?—A. By one of the customs officials; a Mr. Hudnall, I think it is. He is dead now.

Q. He is now dead?—A. Yes, sir.

Q. These customs officials were honest officials, were they not, as far as you knew?—A. As far as I knew; yes, sir.

Q. That is the only personal misunderstanding you had while you were there?—A. Yes, sir.

Q. Was that owing to the fact that you were an officer in the United States Army or owing to some personal misunderstanding?—A. No, sir; that was because I was an officer stationed at Fort Brown.

Q. And this was an official of the United States Government also with whom you had this?—A. Yes, sir.

Q. That is the only difficulty you can recall in your three years' stay there?—A. Yes, sir; and he was not a resident of the town at all. He was just sent down there.

Q. Do you know where from?—A. I don't know where from. He was sent down to investigate one of the custom-house men there.

Q. Was he from Washington?—A. No, sir; I think he came from somewhere in Texas.

Q. Was he permanently or temporarily there?—A. He was there only temporarily.

By the CHAIRMAN:

Q. He, like you, was in the United States service, was he not?—A. Yes, sir.

By Senator FOSTER:

Q. So he could not very well have had any prejudice against you on account of your uniform, as he was a kind of brother officer in the United States service?—A. Well, Senator, I would not mind just briefly outlining the case.

Q. I do not care about it unless some other member of the committee cares about it. Now, do you know how many officers of the battalion were stationed there with you during the three years?—A. Well, there must have been fourteen or sixteen officers from time to time.

I know any officer who was mistreated or insulted by any one of that town, owing to the fact that he was a United States soldier?—A. No, sir.

were all treated as gentlemen?—A. Most courteous treat-

Q. Now, do you know of your own knowledge, Captain—not from hearsay, or not from what was communicated to you by anyone, or the result of any examination that you made—do you know of a single soldier who was mistreated on the ground that he was a United States soldier in your battalion?—A. Well, I only know—that might probably come under hearsay, but it was admitted by the man.

Q. I am speaking not of hearsay, but of your own knowledge.—A. This came to me officially, and I took it to the mayor, and it was admitted, and he said that he would correct it. There were two of the soldiers of my company, Sergeant Case, and I have forgotten the name of the other man, that were kept out of a skating rink because they had the uniform on. They were both perfectly sober, and they reported to me at once. I went to Major Combe, who was the mayor, and he called up the skating-rink man and asked him whether that was true, and he said yes; and the mayor said, "If that happens again, I will take your license away from you."

Q. Is that the only case you recall?—A. That is the only case I know of my own personal knowledge.

By Senator OVERMAN :

Q. Were these men officers or common soldiers?—A. Soldiers. One of them was a sergeant.

Q. This was a skating rink where ladies and children congregated?—A. Well, everybody went there, Mexicans and everybody else. Of course the poorer class of Mexicans were kept out, like they would be in any place.

By Senator FOSTER :

Q. Captain, you speak of considerable prejudice against white soldiers as well as negro soldiers.—A. Yes, sir.

Q. Did this prejudice extend to the Mexicans? Were they prejudiced against the white soldiers and the negro soldiers?—A. Do you mean the Mexicans in Brownsville?

Q. Mexicans in Brownsville.—A. Well, I should think yes, in a way; three-fourths of the population were Mexicans, and they must have been in it if the general tone of the town was hostile to the soldiers; it must have been held by the Mexicans also.

Q. I am asking you about your knowledge. Was this prejudice against the soldier, white or colored, confined to the white American population?—A. No, sir.

Q. Or did it extend to the Mexicans?—A. It extended to the Mexicans also, and people of Mexican extraction.

Q. Well, now, what kind of prejudice did the Mexicans have against the white soldier?—A. Well, they looked upon the American soldier as a common prey for them at any time and all times. They would have him arrested and brought up, and he would be fined \$2 and costs, and the costs would generally amount to about \$10.

Q. That was the Mexicans?—A. Yes, sir; that would be the Mexican policemen, and on sworn complaint of different Mexicans.

Q. Well, now, how do you account for that prejudice of the Mexicans against the white soldiers?—A. I don't know, sir.

Q. What was the cause of the prejudice of the white citizens against the white soldiers?—A. I could not say.

Q. Did you find that prejudice in Fort Brown greater than you found it in other places in which you had been stationed?—A. Well, yes; because it is a small place, and you would hear and see more things. I suppose probably in San Antonio they would have just as much prejudice, but it is a large place and you do not hear and see it.

Q. Is it not a fact that there is always more or less friction and prejudice between the soldiers stationed in a town and the citizens of the town?—A. Yes, sir; undoubtedly.

Q. That is a fact, is it not?—A. Yes, sir.

Q. Whether they are white soldiers or colored soldiers?—A. White soldiers or colored. A soldier when he is drinking, you know, is apt to say and do some things that antagonize somebody, and they do not forget those things.

Q. Now, Captain, probably you are not aware of it, but you have brought a pretty severe indictment against the people of Brownsville, and I wish to ask you if these cases which you have stated, in which you allege that the soldier was mistreated, are cases in which you, of your own knowledge, know anything about the facts and circumstances attending the immediate difficulty?—A. No, sir.

Q. You have stated that there were two homicides in that town, of which the local authorities took no notice.—A. I said to the best of my knowledge, sir.

Q. To the best of your knowledge. Do you know anything about the facts or circumstances attending those homicides of your own knowledge?—A. I only know the one; that was the case of Mr. Lon Hill; that there had been this man, I think his name was Williams, that he went—I don't know exactly what it was, but he had made some threat against him or said he would shoot him, or something like that.

Q. Do you know that of your own knowledge?—A. I know that simply by being told.

Q. And you know, then, absolutely nothing about the facts attending the immediate killing?—A. No, sir; absolutely nothing.

By Senator OVERMAN:

Q. Captain, were you generally acquainted with the prominent people of the town?—A. I think I knew them all.

Q. Did you know George B. Rendall?—A. I knew him, but not very well; no, sir.

Senator WARNER. George W. Rendall?—A. George W. Rendall.

By Senator OVERMAN:

Q. Do you know what his general character was?—A. No, sir.

Q. Did you know Mr. Sanborn?—A. Yes, sir.

Q. Did you know his general character?—A. Yes, sir.

Q. What is it?—A. It is not very good in Brownsville, sir.

Q. Did you know Mr. Hale Odin?—A. I don't think I knew him.

Q. You say Doctor Combe's character is good?—A. Yes, sir; both

of them—there are two Doctor Combes—Doctor Joe and Doctor Fred; and then there is old Doctor Combe—three of them.

Q. Do you know anything against Mr. Rendall?—A. No, sir; I don't know anything one way or the other about him.

Q. He stands pretty high in that community?—A. I don't know, sir.

Q. Do you know Mr. Joseph Martinez, the druggist?—A. A good many of those people I knew by sight to speak to.

Q. He was the druggist?—A. Was he at the Botega De Leon?

Q. He was a druggist.—A. There are three or four drug stores. There are two or three of those men that I knew to speak to, but I don't remember their names.

Q. You do not remember him as a druggist?—A. No, sir; there are three or four druggists.

Q. A drug store kept by Martinez?—A. No, sir; not kept by him. Doctor Combe had one, Williams had one, and one was kept by Mr. Putegnet. Martinez must have been a clerk in one of the drug stores.

Senator FORAKER. He was a clerk in a drug store in Brownsville?

A. They were owned by the other three men.

By Senator FOSTER:

Q. Captain, I believe you stated that you heard frequent discussions on the part of citizens there about the coming of the colored troops?—A. Yes, sir.

Q. I understood you to say that there was a good deal of opposition to the coming of those troops there?—A. Yes, sir.

Q. Did you ever discuss that matter particularly with any of the citizens there?—A. Yes, sir; I think I did on one occasion with Mr. Frank B. Hill. I used to visit down at his house; my wife and myself used to go down quite frequently.

Q. He was one of the respectable gentlemen of the town?—A. Yes, sir; and we talked the matter over there on one or two occasions. My impression is that he is the only one I have talked to.

Q. He is the only one you can recall?—A. Yes, sir.

Q. Now, upon the occasion of this conversation with Tillman, who at the time of this trouble was running a saloon, I believe—A. No, sir; running a grocery store.

Senator WARNER. One of the largest grocery stores in the city.

By Senator FOSTER:

Q. What class of a man was he?—A. An average man that would keep a small grocery store.

Q. What did he state to you about the coming of the negro troops?—A. There were two or three of us standing in the store there, and he was reading the evening paper, which comes at about half past 5, and he made the statement to the effect that—of course all this is just to the best of my recollection—to the effect that it would not be long before the colored troops would be run out of town, and they would have the white troops back.

Q. I think the statement you made in your examination in chief was that he would run the negro troops out of town in a short time?—

A. I don't think I said "he," but "they."

Q. That they would run them out?—A. Yes, sir.

Q. Is that the only statement he made?—A. Well, he expressed disapproval of the colored troops being there—that is, to the best of my recollection.

Q. Did he state how he would run them out?—A. No, sir.

Q. Did he state who would run them out?—A. No, sir.

Q. In your affidavit which you made some time shortly after this—A. September 11.

Q. Which has been read to you, you failed to put that special language in your affidavit, I believe?—A. Yes, sir; I don't think I used exactly the same language. It was that same idea, that they would get rid of the darky troops.

By Senator OVERMAN:

Q. Did you understand that he intended to get rid of them by violence?—A. I did not discuss the matter with him.

Q. How did it impress you?—A. Well, sir, that they were simply going to get those troops out of town by any way that they could.

Q. Were you impressed at the time with the idea that they would do it by violence?—A. Well, Senator, I did not really give much thought to the matter, because I know that oftentimes there is a good deal of talk where there is not much action.

By Senator FOSTER:

Q. The conversation did not make sufficient impression on you to lead you to believe that he would resort to force or violence to get them out of town?—A. I did not think very much about it one way or the other. I knew they did not like it, but they could not help themselves. I thought they would simply settle down and everything go quietly, and I think I said to Mr. Tillman, "I think you will find the colored troops are just as good troops as you will find anywhere, if you will treat them right." That is my impression. I may have said that to Mr. Hill or I may have said it to Mr. Tillman; I don't remember now.

Q. Then you said upon another occasion, if I understood you correctly, that they spoke of organizing a posse?—A. I said that was a current report there in town.

Q. Did you hear anyone make that statement?—A. Several people made the statement; I don't remember who or where it was made. It was current. You would hear it along the streets there.

Q. You can not recall the individual?—A. No, sir.

Q. Nor can you recall the place?—A. No, sir.

Q. At which the statement was made?—A. No, sir; nor the time. You would hear it nearly any afternoon you went downtown, and I used to go down about 5 o'clock.

Q. What impression did that statement make upon you, that they were going to organize a posse and prevent the United States troops going down there?

Senator PETTUS. Not the United States troops, but colored troops.
A. Colored troops.

By Senator FOSTER:

Q. Well, colored troops are United States troops. Did that make any impression upon you?—A. I did not pay much attention to it. You can hear pretty nearly anything in the market.

Q. Did you look upon that as an idle talk of the street corners?—A. I did not pay much attention to it, because that class of people worked themselves up into a furore.

Q. That was principally among the Mexicans, was it not?—A. Mexicans and white people along the streets there, of the lower grade.

Q. Now, did you know Mr. Domingy?—A. The lieutenant of police?

Q. Yes.—A. I have seen him several times. I did not know him personally.

Q. Was he one of the nine whom you said could not speak the English language?—A. No, sir; he speaks the English language.

Q. He was on the force when you were there?—A. He was the lieutenant of police, and they had—

Q. Is he the one whom you have reference to when you say there was one out of the ten who could speak English?—A. No, sir; he was the lieutenant of police; and when I said the police force I understood the police force consisted of the lieutenant of police, the chief of police, and ten men. There was one man besides that—

Q. Then the lieutenant of police could speak English?—A. Yes, sir.

Q. Did the chief of police speak English?—A. Oh, yes; he was a white man.

Q. And there was one more?—A. There was one other man; yes, sir.

Q. You are absolutely certain, Captain, that only one of those could understand the English language—that only one of the ten could understand it?—A. I am as certain as I can be at this time, Senator. That is some three years ago.

Q. Have you read over the court-martial proceedings?—A. No, sir. I attended one or two sessions.

Q. In San Antonio?—A. One or two; yes, sir.

Q. You were not a witness before that court-martial?—A. I was a witness before it; yes, sir; simply on cartridges.

Q. Is your evidence in this printed volume?—A. I don't know. I don't know how far down that brings it.

By Senator FOSTER:

Q. Do you remember on what day you testified?—A. It was just relative to cartridges—my identifying some Mannlicher and Mauser and Krag and Springfield cartridges—that was all.

Q. Did you see any of the witnesses from Brownsville, citizens of the town, who were witnesses before that court-martial?—A. Yes, sir.

Q. As a rule, were they men and women of good character and standing?—A. Well, I did not see them all. The ones that I saw were simply the men that I had known down there, who came over, who would be around and stop in the office. My office is right within a few doors of the court-martial room. They often stopped in there and spoke to me, Mayor Combe and Mr. Kroeger.

Q. Is it not a fact that wherever your battalion or regiment may be stationed soldiers, especially on pay day, are in more or less trouble and difficulties in the town?—A. Oh, yes.

Q. And that many arrests are made; that that happens at almost any place?—A. It is apt to happen nearly anywhere.

Q. Is it not a fact that they are arrested and put in jail and tried?—A. Occasionally. Sometimes two or three pay days will go by and there are no arrests and no trouble; and then there may come a pay day and five or six are arrested.

Q. Put in jail and tried before the committing officer and either convicted or acquitted?—A. Yes, sir.

Q. Well, the experience you had down there, or that your soldiers had down there, was not different from the experience they had in other cities and towns, was it?—A. Yes, sir; it was.

Q. In what way?—A. That the police went out of their way to get after the men. Now, I took the matter up very carefully. When I went down there, there had been a second lieutenant in command of my company, and he had not paid much attention to the company, and the men were all leaving the company, because men will not stay in a company if the company commander does not take care of them. They do not mind it—in fact, I think they rather appreciate it—if the company commander gets after them himself, but they want their rights, and I took that matter up with the commanding officer, Maj. George F. Cook, and also saw the other company commanders, Captain Baldwin and Captain Roach. Captain Roach was away at that time, I think. I have forgotten whether he was on leave or not, and we wanted to see if we could not do something to make the conditions between Brownsville and the troops at Fort Brown a little more bearable. I knew that oftentimes the fault might have been on both sides, but they were too quick and ready to jump on a soldier. A man might be in civilian clothes, and be down in town, and be just as drunk, and he would not be arrested, but a man in soldier's clothes would be arrested, and it got so there after a while—

Q. What is your opinion about a soldier wearing the uniform being drunk, or a citizen wearing ordinary citizen's clothes being drunk, so far as the duties of the peace officers are concerned?—A. So far as the ethical question is concerned, each being drunk, they should both have the same punishment, and the soldier should be punished by the military authorities for disgracing his uniform in a public place. He gets it twice; but they are both drunk, and they should both come under the same municipal laws of the town. Then we attend to them afterwards, when we get them on the post.

Q. Now, Captain, I did not get exactly—in fact, I was a little confused—owing to myself entirely, and not owing to your statement of it—about the wearing away of the lands upon a rifle.—A. Yes, sir.

Q. And the cartridge that could be used in a rifle in which the lands had been worn away.—A. Yes, sir.

Q. I should like to get it clear upon that subject. Now, you say the Krag-Jørgensen rifle, after being shot three or four hundred times, the lands will be worn down?—A. Yes, sir.

Q. Can you use in that rifle a cartridge that is used in the Springfield rifle?—A. I never tried that, I don't know. I think the cartridge of the Springfield is a little bit longer than the cartridge of the Krag, so that it could not be chambered. That is my impression. I don't know; I have never compared the two.

Q. Can the cartridge of the Mauser be used in the Krag?—A. Yes, sir: the Mauser cartridge is a smaller caliber, but it could be fired. Of course it would not have the same velocity, because there would be so much escaping gas around the sides.

Q. In your judgment, however, the cartridge of the Springfield rifle could not be used in the Krag?—A. I think it is a little bit longer.

Q. Could it be used in the Mauser?—A. After the Mauser has been worn down, like a good many of them are—that is, from service—I think that either the Springfield or the Krag cartridge could be used.

Q. But have you ever known it to be used of your own knowledge?—A. In the Philippines—that is, the Krag cartridge.

Q. No; but the Springfield rifle?—A. We did not have the Springfield rifle in the Philippines.

Q. Of your own knowledge do you know of the Springfield cartridge ever having been used either in the Mauser or the Krag?—A. No, sir.

Q. Is there a difference between the cartridge of the Krag and the Mauser and the Springfield; and if so, what is the difference?—A. The Springfield cartridge is a little bit longer than the Krag cartridge, and the Krag and the Springfield both are a little larger caliber than the Mauser. There is a difference in the shell, as the Krag shell has a shoulder on it which engages on the lips of the chamber when it is shoved home. In the Springfield cartridge that shoulder is lacking, and there is a groove, so that practically the whole outside of the case is practically the same size, and this groove is made so that the sides of the clip, which is a small piece of tin, will fit into it—will engage in the grooves on either side. The difference, practically, in a few words, between the Krag and the Springfield is that on the Krag there is a shoulder, and on the Springfield there is a groove at the base of the cartridge.

By Senator FOSTER:

Q. You have stated in your examination in chief something about snapping a cartridge two or three times before it exploded?—A. Yes, sir.

Q. Did you have reference then to the Springfield cartridge being used in the Krag rifle, or the Springfield cartridge being used in the Springfield rifle?—A. To the Springfield cartridge being used in the Springfield rifle, and also to the Krag cartridge being used in the Krag rifle.

Q. What is the difference in the penetrating energy of a Krag cartridge and a Springfield cartridge?—A. The Springfield is a much higher power rifle, and the difference I should suppose would probably be 8 or 10 inches in pine in favor of the Springfield, and possibly 6 or 7 in oak in favor of the Springfield rifle. I have not looked those things up, but that is my impression.

Q. The penetrating power of the Krag rifle you say is about 40 inches of pine?—A. Yes, sir; with the Krag.

Q. Now, suppose you take 100 cartridges, would each one of those cartridges penetrate exactly the 40 inches, or would there be a difference?—A. They are supposed to be exactly the same, because they are tested and put under the same atmospheric pressure at the arsenal.

Q. Well, is not the penetration of one of these bullets owing very largely to the course that the bullet takes? Suppose it is deflected?—A. Oh, yes; of course that would have an effect upon it. Any de-

flection of the ball during its flight and then ultimately reaching a target would affect its penetration.

Q. Suppose one of those rifles should be shot and the ball after going through, say, an inch, were deflected at an angle of 45°, and then should penetrate, say, another inch of pine timber and be deflected again, say, 15° or 20°, how much would that lessen the penetrating power of the ball?—A. That is impossible for me to say. I do not know, sir.

Q. Would it lessen it at all?—A. I should suppose so, but I don't know.

Q. Well, these balls perform some very remarkable feats sometimes, do they not?—A. Yes, sir.

By Senator OVERMAN :

Q. Captain, if there were as many as fifteen or twenty soldiers from this battalion over in Matamoros any day, would that be an unusual thing?—A. No, sir; on bull-fight days the whole outfit were over there pretty nearly, except 10 men who were required to stay in quarters.

Q. And what time would those soldiers have to return?—A. Return for retreat, unless they had a special pass. That would be about 5.30 in the afternoon.

Q. Then if there were as many as fifteen or twenty men there after 7 o'clock without pass, that would be unusual, would it?—A. Over in Matamoros?

Q. Yes.—A. Without a pass; yes.

Q. Would it be unusual for as many as fifteen or twenty to be over there with a pass?—A. Not at all.

Q. Must they all have a pass to go?—A. Not a pass to go across the river, but a pass to be absent from a formation. They could go across the river any time, as long as they did not miss a formation. At least, that pertained there—

By Senator BULKELEY :

Q. That is your own battalion you refer to?—A. Yes, sir.

By Senator OVERMAN :

Q. There is a little house called the ordnance house shown on the map there. What is stored in there?—A. A lot of obsolete munitions of war that were shipped there some time during 1864 or 1865—old stuff.

Q. There was nothing there except out-of-date stuff?—A. Well, there was some. They also kept down there some modern ammunition on hand. I was not the ordnance officer, but they kept some modern ammunition on hand there—target material and things like that; but most of the storehouse was taken up with old obsolete stuff.

Q. They did keep there some modern ammunition?—A. Oh, yes; they did keep some modern ammunition and also powder for the reveille.

Q. Were there any rifles kept up there?—A. Yes, sir.

Q. Rifles too?—A. Yes, sir; there was in my time, because I got some from the ordnance officer.

By Senator FOSTER :

Q. Captain, what kind of cartridge belt is used for inspection? Is it the McKeever belt or the web suspender belt?—A. That is left

a good deal to the post and regimental commanders, Senator. When they turn out in blue uniform they generally wear the McKeever belt with the McKeever box, but when they are in the olive drab and service uniform they generally wear the web belt with thimbles.

Q. That is left, as I understand, to the commanding officer?—A. Yes, sir; but now they do not use the web belt with the thimbles, but use the one with the pockets to hold the clips. That is left entirely with the commanding officer, though.

Q. But in a battalion, would one company be permitted to be inspected with the McKeever belt and another company with the web belt, or would the whole battalion be required to use one kind of belt?—A. That would depend on whether it was a battalion formation or a company inspection. If it was a company inspection, it was usually left to the company commanders to order the uniform they desired to inspect their company in, and they generally have company inspection about two Saturdays out of each month, and the other two Saturdays would be battalion, and they would all be exactly the same.

Q. Suppose you were going to have an inspection at an unusual time, not a regular inspection day, what would the companies be required to use upon an occasion of that kind, in a battalion inspection?—A. That would depend entirely on the major in command of the battalion. He would order it as he saw fit.

Q. Suppose you were going to have an inspection, and the men were not notified that they were going to have an inspection. Would each company commander be permitted to use the belt that its commanding officer saw fit?—A. That could hardly be, Senator, because if there was going to be an inspection the commanding officer would know about it at least two hours before hand, and word would be sent around what the uniform would be.

Q. Suppose that on the morning of the 14th, after this trouble in Brownsville, the commanding officer had an inspection and had failed to notify the men even that he was going to have an inspection what kind of belt would they wear?—A. Well, I don't know, Senator; that is going into another regiment, and I don't know what the rules were and what pertained in that regiment. I would not like to say, because I don't know.

By Senator FORAKER:

Q. Captain, you speak about passes, and men going over to Matamoras. I understood you to say that while you were there it was unnecessary for a man to have a pass to go over to Matamoras during the daytime?—A. No, sir; provided he did not miss a formation.

Q. That is, he would have to be back for retreat and all the roll calls?—A. Yes, sir.

Q. And all the drills, and everything else?—A. Yes, sir.

Q. He could go across the river without having any special pass, but if he wanted to stay out overnight, or be absent when there was any formation, he would have to have a pass?—A. Yes, sir.

Q. So that it would be nothing unusual for 5 or 6 or 10 or 15 or even 20 men out of a battalion of 170 to be across at Matamoras during the daytime?—A. It would not be unusual to have that many out of one company, Senator.

Q. That was your experience there, was it?—A. Yes, sir. Men came and went as long as they could behave themselves across the river.

Q. You spoke about cleaning guns, and estimated that about ten minutes would be necessary for cleaning one of these guns. Let me put the question to you in a different way. Suppose you wanted one of these guns to pass inspection, and it had been fired; how long would it require to clean it, when you had not only to clean the bore, but clean the chamber and all that sort of thing?—A. Screw heads, and all—the whole gun?

Q. Yes; to put it in condition to pass a rigid inspection—your own inspection?—A. My own inspection, it would take a man the best part of three-quarters of an hour; I mean to thoroughly clean the gun and the screw heads, and around the barrel—well, with the new rifle it is cased in wood, but around the trigger guard, and the butt plate, and everything else, to thoroughly clean the gun.

Q. And it is a very tedious job to clean one of these guns, isn't it?—A. It is a job a man has to be careful and go over everything, and generally he takes toothpicks to get into every little place.

By Senator OVERMAN:

Q. How long would it take to clean a gun to pass an inspection very early in the morning in order to keep from being detected as having been fired, so that the officer could not detect that it had been fired? How long would it take to clean it to put in that condition?—A. I should say, just as I said before, about ten minutes.

By Senator FORAKER:

Q. If you were to open up the chamber of the gun, what would you have to do to clean it?—A. You would have to take the bolt out, take the bolt to pieces, because there might be powder stains collected in the different crevices and the portions of the jacket, and so on, and then run a rag through the gun, or first a brush to loosen the powder.

Q. You spoke of having the necessary facilities for cleaning it?—A. Yes, sir.

Q. Do you mean by that a cleaning rod?—A. Cleaning rag and thong and rags.

Q. Now, have you yourself had much experience in cleaning these modern rifles, or do you leave that to the men?—A. No, sir; I leave that to the men. I have cleaned them at the academy lots of times.

Q. In reading this testimony before the court-martial, I see that First Sergeant Gebhard, of your regiment, was examined on that point. Do you know First Sergeant Gebhard, Twenty-sixth Infantry?—A. What company does he belong to?

Q. I do not recall now.—A. The regiment is changing a good deal, men going out and coming in. I possibly know him by sight, but I don't know him personally.

Q. I see he estimates that it would take at least twenty minutes to clean one of these guns after it had been fired so it would pass inspection. Is that an unreasonable estimate according to your experience?—A. To pass a thorough, rigid inspection, no sir; it is not unreasonable.

Q. If there had been a shooting up of a town, and somebody would come in and charge that your men were guilty of that shooting up, and you were to have an inspection with a view to finding out whether or not they had been engaged in it, you would make a rigid inspection, would you not?—A. Yes, sir.

Q. Looking carefully for powder, not only in the bore but also for indications of firing in the chamber?—A. Around the firing pin.

Q. To get ready for that kind of an inspection would take how long?—A. I should say, just as I said, for a man thoroughly to clean his gun—

Q. That is what I mean.—A. There are three different phases which have been put to me; first of all just simply cleaning the barrel, which I said would be ten minutes, and then cleaning the whole gun for rigid inspection.

By Senator BULKELEY:

Q. That was only cleaning the barrel you meant, when you said ten minutes?—A. Yes, sir; and then cleaning the whole gun—I mean getting in to the screw heads and butt plates, and all around there, to make a really and absolutely clean gun—I should say it would take three-quarters of an hour, if you want to clean the barrel and take the firing pin apart, and take the jacket off, and the striker, the plunger, and the spring out, because there might be some powder in there. I should say twenty minutes was certainly not more than ample time, not more than sufficient time.

By the CHAIRMAN:

Q. I want to put a practical question. Let us not go into details so much. Suppose you were going to take this gun that is behind you there, and you found it in perfect condition, and you should go out and fire it three or four times. What would you do then in cleaning it to put it in condition so as to put it back there in the rack to leave it until you wanted to use it some other time?—A. Clean the barrel and the bolt.

By Senator FORAKER:

Q. And the chamber also?—A. That is included in the barrel.

Q. Would you take the bolt out?—A. Yes, sir; and the clip. That is all apt to be stained with powder.

By the CHAIRMAN:

Q. What you mean is that in the one or two discharges the powder would come back into the lock, and so forth?—A. It is apt to.

By Senator FORAKER:

Q. State whether or not you could do that in the dark.—A. Well, I would hate to stand inspection with it afterwards. I don't think I could.

Q. You think it would be very difficult, don't you?—A. Yes, sir; I think it would be very difficult to do.

Q. You were examined about the practice on the target range with respect to cartridges. I want to ask you, is it not a fact that when men are taken out on the target range to engage in target practice the quartermaster's sergeant takes out the cartridges which are to be used, stays there in charge of them, either he or some representative of him, and that each man who engages in the firing is allotted the

specific number of cartridges he is to fire, and that it is all under the eye of an officer?—A. Yes, sir; it is usual to take the quartermaster's sergeant and the artificer, and the artificer carries a sack with him to take the empty shells. A man takes his box of 20 cartridges, goes to the stand and does his firing under the supervision of an officer, picks up his shells, brings them to the artificer, and the artificer has a bucket with soda in it to clean them, and he decaps them and puts them in the sack.

Q. Suppose a man to be given 10 rounds—ten cartridges to fire—and for some reason, his gun getting out of order, or some other reason, he should fire only 8 of them, what has he to do with the other two?—A. He turns the rest of them in.

Q. Back to the quartermaster's sergeant?—A. Yes, sir.

Q. Now, if a man should undertake to filch cartridges—I suppose that is the proper word—I mean misappropriate them, stick them in his pocket, as was stated a while ago, while engaged in target practice, he would have to do that under the eye of an officer, would he not?—A. He takes his chances.

Q. Would that be in violation of rules or orders?—A. Yes, sir.

Q. If a man would be caught at it, what would be done?—A. He would be put before a summary court and punished as a summary court might see fit.

Q. He would be court-martialed, in other words?—A. Yes, sir; by a summary court.

Q. So that a man doing that would be just like any other man violating the law?—A. He takes his risk to do it.

Q. If a man picks your pocket, he takes the risk?—A. Yes, sir.

Q. And the same general principle would apply here, I suppose?—A. Yes, sir.

Q. Now, you speak of bucking cartridges. That is polishing them up?—A. Yes, sir.

Q. And you were asked if a man might have ten that were polished and ten that were not, ten for sunshiny days and ten for rainy days. Could he have those without being charged with them?—A. Not if it came absolutely to the knowledge of the company commander. As a matter of fact, you know, Senator, there are a good many small things like that that are done that if they do not come officially to you you do not pay attention to them.

Q. But suppose a man to be issued twenty rounds of cartridges—A. He could not be issued them.

Q. If a man should be issued twenty—it is not unusual for each man to have twenty rounds of cartridges, is it, in the company?—A. Well, ten.

Q. He could polish up ten of those, to use on guard duty if he wanted to?—A. Yes, sir.

Q. And then he would have ten that were not polished?—A. But he would be accountable for twenty.

Q. He would be charged with twenty?—A. Yes, sir.

Q. And if he gave away any of his cartridges he would have a deficit, would he not?—A. Yes, sir.

Q. Is it or is it not a fact that citizens can get cartridges, to a greater or less extent, from the men about such a garrison as that at Fort Brown?—A. Yes, sir; in fact, in any garrison they come out there and take them for souvenirs—things like that.

Q. Get them from the men?

Senator LODGE. How can they get them from the men, if the men have to account for them?

A. Well, that is only a 2 or 3 cent charge put on them. They take their chances.

Q. Then the men do give away cartridges?—A. Yes, sir.

By Senator FORAKER:

Q. You said a while ago that they gave them away, and they would probably only be charged with them unless it should be discovered that they were making a habit of it or abusing the privilege?—A. Yes, sir.

Q. It is contrary to the regulations of the Army, is it not, to give away or sell any cartridges?—A. Yes, sir; absolutely.

Q. Or to part with any other Government property?—A. Yes, sir; absolutely.

Q. Nevertheless men do sometimes do what you suggest?—A. Yes, sir.

Q. That is not the common practice, however, is it?—A. Well, it depends. When we went from San Francisco to Port Tampa, about the whole regiment was cleaned out of its cartridges, going through on the trains.

Q. Going where?—A. From San Francisco to Tampa.

Q. On your way to the Spanish-American war?—A. Yes, sir.

Q. That was the war spirit?—A. Yes, sir.

Q. People wanted souvenirs?—A. Yes, sir; and buttons, too.

Q. Well, those were extraordinary times, exceptional times. Now, do you know of any place at Fort Brown where men who wanted surplus ammunition could go and get it, about the fort, from any officer or anybody?—A. No, sir; I don't know of anybody—I don't think it would be very difficult to get the Government cartridge there in Brownsville or Matamoros, though.

Q. Do you think you could get cartridges in Matamoros and in Brownsville?—A. Yes, sir.

Q. What makes you think that?—A. Well, I have been out hunting with different people at different times, and they have had cartridges.

Q. Who were these people?—A. Mr. Celaya was one.

Q. A citizen of Brownsville?—A. Yes, sir.

Q. He had some Government cartridges?—A. They have Government cartridges. I have had people come up and ask if you could buy a Government gun.

Q. A Government gun?—A. Yes, sir.

Q. Why did they want a Government gun?—A. I suppose for deer hunting around there. There are a great many deer around there.

By Senator OVERMAN:

Q. They could not have gotten it from soldiers?—A. I do not know; they were left around down there.

By Senator FORAKER:

Q. Is it not true that if a soldier parts with some of his ammunition he has less than he had before?—A. Yes, sir.

Q. So that if a soldier with 20 rounds of ammunition parts with 5 rounds of it he has only 15 rounds?—A. Yes, sir.

By Senator LODGE:

Q. If a citizen can get ammunition, what is to prevent soldiers from getting it?—A. I do not know, sir, except that I do not think that they are going to buy things that they can go around and pick up for themselves.

Q. They could pick it up, then, could they?—A. Yes, sir.

Q. Where would a soldier pick up cartridges?—A. Well, there is always a certain amount around the target range, and they could get it there. A soldier takes his chances, just as a man does in everything else.

By Senator FORAKER:

Q. If a soldier picks up cartridges on the range, those would be cartridges that somebody had lost, would they not?—A. Yes, sir. Suppose that they make a skirmish line, and each man has 20 cartridges in his belt. When a man is running forward and dropping down at a certain place and firing a certain number of shots, and then jumping up and running forward again, and dropping down and firing again, the natural jolting of the body is such that you are very apt to drop some of your cartridges.

Q. Things of that sort are likely to happen?—A. Yes, sir.

Q. It is your opinion that there were regular army cartridges in the hands of the citizens of Brownsville and also in the hands of citizens of Matamoros?—A. Yes, sir; I have no doubt about it. I have never actually seen them there, but I have no doubt that they had them.

Q. No matter how they got them, you are satisfied that they were there?—A. I am satisfied that there were cartridges there; yes, sir.

By Senator FOSTER:

Q. That is, the Springfield cartridges?—A. The Springfield? No, sir; the Krag. I left there, so that I do not know about the Springfield.

By Senator FORAKER:

Q. Do you know whether there was an order issued by the War Department on the 19th day of March, 1906—I have put it in evidence here—directing that all surplus ammunition be taken up throughout the entire Army?—A. Yes, sir.

Q. You remember about that, do you?—A. Yes, sir.

Q. Was that order promulgated at Fort Brown?—A. Yes, sir.

Q. Was it executed?—A. Yes, sir; it was as far as my company was concerned. I do not know about the others.

Q. You started in with the new gun and the new ammunition?—A. Yes, sir; with the new gun and the new ammunition.

Q. No old ammunition on hand?—A. No, sir; no old ammunition on hand.

Q. And you issued just so much ammunition?—A. Yes, sir.

Q. And it was all counted out to you—charged out to you, I mean—and each company had its quota of ammunition issued to it by the post ordnance officer, I suppose?—A. Yes, sir.

Q. And then each company issued its ammunition to its men?—A. Yes, sir.

Q. Is it not true that from and after the issuing of that order special pains were taken with the ammunition to see that it was all

taken up, and the accounts were all kept straight?—A. Senator, at the end of each quarter each troop, battery, and company commander is required to put a certificate on his ordnance return saying "I have the honor to certify that I have taken up all surplus ordnance property on this return."

Q. He would not put an untruthful statement there, would he?—A. He could not afford to do it and be an officer.

Q. If he puts a truthful statement on that return, that is a certificate that what it recites has been done?—A. Yes, sir.

Senator FORAKER. I put in evidence statements of that kind from all the company commanders in this battalion of the Twenty-fifth Infantry. These statements run from page 268 to 279 of our records. The certificate attached to the return of Company C is as follows:

I certify that the foregoing return exhibits a correct statement of the public property in my charge during the half year ended June 30, 1906, and that the maximum strength of the company during the half year was 65 enlisted men.

EDGAR A. MACKLIN,

Captain, Twenty-fifth Infantry, Commanding Company.

Then follows a statement in which every item of company property is specifically set forth, and the amount of it, and so forth. That should be an absolutely correct return, then, should it not?—A. Yes, sir; absolutely correct.

Q. It is an absolutely correct return, is it not?—A. Yes, sir.

Q. A company commander or any other officer would not make such a statement as that until he had verified his property, would he?—A. No, sir.

Q. His ammunition and everything else?—A. Yes, sir.

Q. So that if we find in that report a statement showing how much ammunition each man had, we have a right to rely upon it, according to your experience?—A. Yes, sir.

Q. Now, about the wearing down of the lands of a rifle. You said that your Krag-Jørgensen rifles seemed to have become worn down as to the lands, after you had had them about three years, to such an extent that you made a requisition for 50 new rifles?—A. Yes, sir; it was about two years and a half.

Q. You were in the Philippines during that time?—A. Yes, sir.

Q. You had no target practice then, at all, had you?—A. No, sir.

Q. And how much firing was done, perhaps, on an average, for each rifle?—A. That is pretty difficult to say. We were in three campaigns over there, and it is pretty difficult to say how much firing there was, or even approximately.

Q. Three hundred or 400 rounds to each man?—A. Oh, I should think 300 or 400 rounds each would cover it.

Q. Three hundred or 400 rounds each. Do you know how much target firing was done with these Springfield rifles after they got them, at Fort Niobrara, before they left there?—A. No, sir.

Q. Do you know how much was done by the other companies at Fort Brown?—A. Yes, sir.

Q. How much?—A. Four companies fired their regular course there and completed it.

Q. How much was the allowance?—A. Four hundred and twenty cartridges to each man.

Q. Four hundred and twenty cartridges to each man?—A. Yes, sir; I think so.

Q. Can you state whether they were all fired or not?—A. No, sir; that is the maximum allowance. Of course a man does not fire actually that many shots.

Q. Yes; I understand. They are issued about 26,000 rounds, or something of that kind, to each company, and perhaps they fire only 16,000 or 17,000 rounds or 20,000 rounds.—A. The idea is to give a poor shot more chance. A man that will fire his record there can fire it in about 380 shots, I think.

Q. However that may be, you think that the lands become worn to an appreciable degree after they have been fired two or three hundred times?—A. I found that to be the case with the Krag.

Q. You have had no experience with the Springfield?—A. No, sir.

Q. Now, you spoke about telling somebody in Brownsville that they would find the colored troops, if they came there, to be troops that would conduct themselves well, as I understand you, or words to that effect. Have you served with colored troops, ever?—A. No, sir; but I had two classmates who served with them, and have heard a great deal of colored troops; and then I was brigaded with the Twenty-fifth Infantry down in Cuba.

Q. You were brigaded with them in Cuba?—A. Yes, sir; with the Twenty-fourth or the Twenty-fifth; with the Fourth, first; and I think it was the Twenty-fifth or it may have been the Twenty-fourth Infantry, in Cuba. They were colored, at any rate.

Q. Then at that time you had opportunity to observe what kind of soldiers they were?—A. Yes, sir.

Q. What kind of soldiers are they?—A. They make very good soldiers in every way, provided, of course, they are led by a white man and have confidence in their leaders, their officers.

Q. Is it a fairly easy matter to subject them to good discipline?—A. Yes, sir; but it has to be very prompt discipline.

Q. What?—A. Very prompt discipline.

Q. That is, they must know you are in earnest, you think?—A. Yes, sir.

Q. But with officers who understand how to handle them, colored soldiers make good soldiers, do they?—A. Yes, sir; I believe so.

Q. And how do they compare in their conduct, as to docility or as to liability to commit acts of violence, on pay day or on other occasions, with the white soldiers?—A. I do not know about that. I have just heard in general terms. I know there were two classmates of mine who were rather averse to going to colored regiments, and I afterwards saw them and they said they would not go to a white regiment if they could help it.

By Senator OVERMAN:

Q. I wanted to ask you about this ordnance house. How far is that from the hospital out there?—A. I should think it was a good 800 yards. It is a good 800 yards or 900 yards.

Q. And they keep rifles and ammunition there? Now, who kept the key to that house?—A. The ordnance sergeant, Sergeant Hopkins.

Q. How do you know who kept it?—A. He is the ordnance sergeant. They have an ordnance sergeant there.

Q. They have an ordnance sergeant there?—A. Yes, sir.

Q. All the time?—A. Yes, sir. The way I happen to know about

that is that man, Sergeant Hopkins, used to be my own first sergeant, and I found him at Brownsville.

Q. Is that kept locked up?—A. Yes, sir.

Q. That is a house away off by itself?—A. Yes, sir.

Q. With no guard around it?—A. No, sir; they have a guard around by the corral, and he walks around by that granary, so that he can see the ordnance storehouse.

Q. But his beat does not extend up to that house?—A. No, sir; it did not in our time. I do not know what the Twenty-fifth did.

Q. The same officer is there now that was there when you were there?—A. Yes, sir; the same noncommissioned officer.

Q. Yes.—A. Of course there is a lieutenant always made ordnance officer as soon as you get to a post, and he has a key also. Sometimes they have two keys, and the ordnance officer and the ordnance sergeant each have one. I do not know how it was at Brown. Sometimes the ordnance officer prefers for the ordnance sergeant to keep the keys entirely.

Q. As to the ordnance room in the barracks where the ordnance is kept, how many keys are there to that?—A. Two; one kept by the first sergeant and one kept by the quartermaster-sergeant.

Q. One by the first sergeant and one by the quartermaster-sergeant?—A. Yes; that is usual in the company.

Q. That is usual?—A. Yes, sir.

By Senator FORAKER:

Q. What regiment did you succeed at Brownsville?—A. The Fourth Infantry. There was only a detachment left behind.

Q. How long had they been there?—A. About two years, I think.

Q. You do not know anything about their experience?—A. No, sir.

By Senator WARNER:

Q. One other question. You were pleased to designate, in answer to former questions I asked you, in respect to surplus cartridges, where the soldier would have 10 for sunshine and 10 for rain?—A. Yes, sir.

Q. That was the case where 10 cartridges were issued to the soldier—that is all that is supposed to be issued to him?—A. Yes, sir.

Q. So that those other 10 cartridges would be extra, over and above what would be issued to him?—A. Senator, as I said at the time, there are a good many things that happen that way in the company that we do not know about officially. Sometimes those things occur. But if we know that a man has 10 extra cartridges we take those up and charge him with 20.

Q. Now, you say in substance that there was no difficulty in getting these Government cartridges in Brownsville?—A. I do not think there would be any difficulty about it.

Q. You were hunting—A. Yes; I have been out hunting.

Q. With parties who had the Government cartridges?—A. No, sir; those people did not have the Government cartridges. I think that what I said was rather misleading when I answered that way. I tried to correct it right afterwards. What I said was that there were several people down there I knew who had been out hunting, and I was sure that they had used Government cartridges, but I did not say that I had personally seen them.

Q. Very well. With that correction, Captain, how do you become sure that they had used Government cartridges?—A. Oh, just current report there.

Q. You knew that Government cartridges, if used, had to be gotten some way out of the ordnance stores, did you not?—A. Yes, sir.

Q. The Government did not sell them?—A. No, sir; but the Winchester people sold a cartridge very much like ours.

Q. I know; but we are talking about the Government cartridges now, Captain.—A. Yes, sir.

Q. The Government did not issue them to anybody whatsoever?—A. No, sir.

Q. And it was unlawful for anybody outside to have Government property in his possession, was it not?—A. Yes, sir.

Q. Just as much to have cartridges as it was to have clothing?—A. Yes, sir.

Q. When you found out that these parties had Government cartridges, if you were sure of it, did you investigate it?—A. No, sir; that is the duty of the post commander.

Q. Did you report that to the post commander?—A. The post commander was thoroughly cognizant of affairs. I do not think I made that especial report. I made reports on several occasions of different articles of Government property that were in the hands of civilians.

Q. But the fact is, if those parties had Government cartridges, there was no extraordinary occasion, such as that when you went from California across the country, for taking your buttons or your cartridges or anything of the kind?—A. None whatsoever.

Q. They must have gotten those cartridges from some one connected with the Army?—A. Yes, sir; either the Fourth or the Twenty-sixth Infantry.

Q. The Twenty-sixth Infantry averaged up a usually careful lot of men?—A. Yes, sir.

Q. And well disciplined, as you have said before?—A. Yes, sir.

Q. There has been read to you a certificate on a return made of ordnance—a return with a certificate attached to it. That certificate would not contradict what you have said, that these cartridges got out away from the men, would it?—A. No, sir; I do not think so; because, you see, you have an extra allowance there.

Q. What do you mean by an extra allowance?—A. You are allowed 420 cartridges to each man, to be expended in target practice, and I am not exactly sure about these figures, but I think that it only takes 380 cartridges for a man to fire right through his course.

Q. There would be 40 cartridges surplus?—A. Yes, sir.

Q. What were those supposed to be used for?—A. For a poor shot you could use those extra 40 cartridges, or for a supplementary season; and then if any were lost you could make them up right there.

Q. So you would just keep those surplus cartridges?—A. They don't keep them on hand. They simply drop them, up to the number that you are supposed to have. Suppose you only have 25,000, and you find after the target practice you have actually 4,000 left; you would make up your return and see whether you will use up your 25,000. If not, and it is more, you simply drop the 4,000, and you have actually 4,000 on hand. So that each return shows actually what you have got on hand.

Q. It shows what you have, counting 420 rounds for each man. As we used to do in the civil war, when sometimes we got a little short of something of the kind, it was accounted for under the head of "Lost in action."—A. Yes, sir.

Q. I want to understand this, Captain, and we all want to understand it.—A. Yes, sir.

Q. Just explain it in your own way again about these 420 cartridges—how extra cartridges would get out.—A. Well, supposing your company consisted of 30 men; that is, taking it down to a small number. Suppose you are allowed 420 cartridges per man for the target practice. That would be 12,600 cartridges you would draw from the ordnance officer. Supposing, when you came to count up, you found you had 400 cartridges left.

Q. Yes.—A. You would take up on your return 12,600 received from the ordnance officer; expended in target practice, 12,200; balance on hand, 400.

Q. Yes.—A. Although you could have expended the 12,600.

Q. But did that show that all the others had been expended?—A. No, sir; you did not expend the 420 rounds.

Q. I know; but all excepting the 400?—A. No; you might have lost some; some might have been defective. But as you are within your allowance, you would simply take up what you had actually left.

Q. That is what I understood. So that it was not a matter of care as long as you kept within your allowance?—A. Kept within your allowance; and of course you are actually responsible for each one, and each man is assumed to act in good faith toward the Government in a case like that.

Q. And assuming that you exceed your allowance, would you have to pay for it?—A. Yes, sir; of course, if you go outside of your allowance you must pay for it.

Q. It is charged up to you?—A. Yes, sir; to the officer.

By Senator BULKELEY:

Q. In distributing the ammunition to the men, you do not give a man his full 420 rounds?—A. Not at that time. Just at the times they shoot. If they shoot at one place, you give them 20 cartridges to shoot there, and a man may not shoot again until the next evening. He goes out and you give him 20 cartridges to shoot at this station, and so on.

Q. Is he required to shoot those cartridges?—A. Yes, sir; at that time. He can not keep those in his possession.

Q. That is it. Each man must shoot the cartridges that he takes or turn them in?—A. Yes, sir.

Q. So that he has not any surplus cartridges in his possession when he gets through his shooting?—A. No, sir.

By Senator LODGE:

Q. But a man does lose sometimes?—A. Well, I don't know about that, Senator.

Q. You said something about being a "chronic loser?"—A. Yes, sir; there are chronic losers.

Q. That is, cartridges are lost in carrying them about, as I understand?—A. Yes, sir; carrying them about in the wagon; and in taking the boxes out of the wagon some of the small boxes are liable

to be broken, you know, and we just try to do the best we can, of course.

Q. But there is no trouble about a soldier having a few extra cartridges in his possession, is there?—A. I can only speak about my own company. I do not know about other companies. I tried to make it as difficult as I could for them.

Q. But do they do it occasionally?—A. Yes, sir; I catch up with them occasionally.

By Senator WARNER:

Q. And these cartridges, again, if they got out, of which you are morally certain, among the people of Brownsville, had to get out some way from the ordnance officer, or from the companies?—A. Yes, sir.

Q. First from the ordnance officer?—A. Yes, sir.

Q. And then from the members of the companies, if not direct from the ordnance officer?—A. Yes, sir.

By Senator FOSTER:

Q. If that rifle there was shot four, five, or six times, and you were inspecting your company, could you tell from looking down the barrel of the rifle whether it had been shot or not?—A. Yes, sir; I think you could, and especially by smelling it. There is quite a perceptible odor to the nitro powder, and you could tell whether a rifle had been recently fired, I mean within four or five hours. The nitro powder has quite a pungent odor to it; and it will stick in the grooves.

Q. In looking down the barrel or the bore of a rifle, and you see that it is foul, or think that it is foul, can you tell what the foulness comes from, rusting or what?—A. Only by running a rag through it and seeing what is deposited on the rag.

Q. But you can not tell what it is from?—A. No, sir; not always. It might be just black dust.

By Senator BULKELEY:

Q. Supposing your company was ordered out on the usual call for drill?—A. Yes, sir.

Q. And instead of drill, as commander of the company you concluded to have an inspection?—A. Yes, sir.

Q. Would you ordinarily expect to find the arms and equipments and ammunition of the men in perfect order?—A. I would expect to find them clean and clear from all rust and in serviceable condition. I would not expect them to have screw heads all cleaned out like at Saturday morning inspection, but I would expect them to have them in such a condition as to show that proper care had been taken of the rifles.

Q. Would it be anything strange, if you had your command assembled, to find two or three men whose muskets were not in such condition on a call that was unexpected?—A. I never found any men that way more than once, Senator. I mean if I ever found a man that way I would punish him severely.

Q. Were you in the habit of having the men called out for drill and instead of drill inspecting the rifles?—A. Inspecting the rifles; and the noncommissioned officer in charge of quarters had orders to

see that when the rifles were put in the racks they were properly cleaned, and I held him responsible for it.

By Senator OVERMAN :

Q. Suppose there was an inspection on Saturday, and on Tuesday three men after inspection were ordered out for reinspection, would that be unusual?—A. Oh, no. You might do it.

By Senator FORAKER :

Q. Suppose you had been out on a practice march in the meanwhile, or had been out on guard, and the guns standing around in the barracks, would there not be evidences of use and dust collected in them?—A. Yes, sir; a gun at Fort Brown, even standing out in front of the company waiting for inspection, especially out by Barracks D, would become soiled. The road coming in front there, the men's guns while standing there would become full of dust just in five or ten minutes from wagons passing there and the dust blowing on them.

Senator WARNER. I will say here that there is no evidence that the guns were standing around.

By Senator BULKELEY :

Q. Supposing your men had been on duty practically all night?—

A. A man has got to clean his gun before it is put in the rack.

Q. Suppose when a soldier is on duty you hold him until the usual drill time in the morning, and then instead of drill you have inspection?—A. A man would be exempt from that duty at that time under those circumstances.

Q. I am not asking about guard duty; but supposing, as in this case, the companies were all ordered out in the morning or night, and were deployed in skirmish line behind this brick wall and held there an hour or two, and then returned their pieces in the night, and the next morning were ordered out for drill, and instead of drill they had inspection, would you expect to find those pieces all in good order?—A. No, sir.

Q. Now, there has been a little disagreement. In the course of your inspection, supposing you came across a man whose gun was not in proper condition, what would you do with him?—A. I would have him report to me in the orderly room immediately after inspection.

Q. You would leave him in the ranks?—A. Yes, sir; I would leave him in the ranks and then I would have him in there. He could not leave the barracks until his gun was properly cleaned and inspected.

Q. It has been testified here that some men were stepped to the front and some to the rear. What have you to say about that?—A. Different customs obtain in different companies.

Q. I only wanted to find out about that.—A. Yes, sir.

(Witness excused.)

TESTIMONY OF SECOND LIEUT. EDWIN POTTER THOMPSON.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. What regiment do you belong to?—A. The Twenty-sixth Infantry.

Q. What company?—A. Battalion quartermaster, not assigned to any company.

Q. How long have you belonged to the Twenty-sixth Infantry?—A. Ever since about March, 1902.

Q. 1902?—A. Yes, sir.

Q. Where was the regiment at that time?—A. In the Philippine Islands, sir.

Q. Did you join it there?—A. Yes, sir.

Q. And you have served with it ever since?—A. Yes, sir.

Q. Were you with it at Brownsville?—A. Yes, sir.

Senator FORAKER. I want to put in evidence in connection with this witness's testimony an affidavit that he made, found at page 165 of Senate Document 155, which I will read, and which I ask to be inserted in the record in full.

The affidavit referred to is as follows:

SAN ANTONIO, COUNTY OF BEXAR, *The State of Texas*, ss:

Personally appeared before me, the undersigned authority, one Edwin P. Thompson, who, being sworn, deposes and says:

"That he is a second lieutenant in the Army of the United States; that in such capacity he served at Fort Brown, Brownsville, Cameron County, State of Texas, from September 4, 1903, until August 13, 1906; that when it was known that a battalion of the Twenty-fifth United States Infantry was to garrison the post many derogatory remarks were made before its arrival by some citizens in reference to the colored soldiers in words as follows, or words to the like effect: 'We don't want the damn niggers here.' 'Niggers will always cause trouble.' 'To hell with the colored soldiers; we want white men.' And that he is unable to fix any one of such remarks upon any one citizen owing to the frequency with which like remarks were made and the period of time covered; that various minor clashes occurred between the individual citizens of the town and the soldiers; that one Teofilo Crixell, a saloon keeper of Brownsville, Tex., told him that a row had occurred in the 'White Elephant' saloon, owned by one Vincente Crixell, in words to this effect, to wit: That one Bates, a Federal officer, was at the bar drinking when a colored soldier entered and asked for a drink; that the said Bates then turned to the soldier and said no nigger could drink at the same bar with him, and that upon the soldier remarking that he was as good as any white man said Bates drew his revolver and hit the soldier over the head; said Bates then going to the police headquarters and offering to pay his own fine.

"Further deponent saith not.

"E. P. THOMPSON,

"Second Lieutenant, Twenty-sixth Infantry."

Sworn to and subscribed before me this 27th day of September, 1906.

L. M. PURCELL,

Second Lieutenant, Twenty-sixth Infantry, Judge-Advocate.

(The affidavit was read aloud by Senator Foraker.)

By Senator FORAKER:

Q. Now Lieutenant, state whether or not that affidavit is correct.—
A. It is correct, sir.

Q. How did you happen to make an affidavit of that kind?—A. I was called upon to do so by the military secretary of the Department of Texas.

Q. What opportunity did you have for finding out how the people of Brownsville felt about this proposition to bring colored soldiers there to relieve your command?—A. Because I was there continuously until the arrival of the Twenty-fifth Infantry, and I heard conversations about it.

Q. What time did the battalion leave Brownsville—your battalion?—A. The 5th of July, sir.

Q. Did not a detachment of your battalion remain behind to await the coming of the troops of the Twenty-fifth Infantry?—A. Yes, sir.

Q. Do you mean that you were left with that detachment?—A. I was, sir.

Q. Were you in command of it?—A. I was.

Q. So that you were there from the 5th of July until the arrival of the colored troops, which I believe was the 28th of July?—A. Yes, sir.

Q. In command of this detachment?—A. Yes, sir.

Q. Was any other commissioned officer there with you during that time?—A. No, sir.

Q. How long was it before the 5th of July, when your battalion left, when the word was first received that you were to be relieved by this colored battalion?—A. I do not remember how long before the first word came, sir.

Q. Was it not some weeks before?—A. I believe it was, sir.

Q. Tell us, now, when and where, and if you can, give us instances, where you heard derogatory remarks made, such as you have mentioned in your affidavit.—A. It is impossible for me to say exactly where, or who made them; but after about three years at Fort Brown I knew nearly everybody in Brownsville, and as quartermaster there I had a good deal of business with various citizens of the town, and I was brought in pretty close contact with them, and outside of any business relations, I had quite a number of personal friends, and the remarks of such kind as I have mentioned in my affidavit were given while not holding any conversation about the question of the arrival of the Twenty-fifth, or the future arrival of it, but were simply things that I overheard, and remarks made to me, trying to get information from me as to the character of the colored man as a soldier, in general.

Q. State whether or not you heard remarks of this character frequently enough to indicate what the general public sentiment in Brownsville was in respect to colored troops.—A. Yes, sir; I did.

Q. What was it?—A. The sentiment of Brownsville, in my opinion, was against having the post at Fort Brown garrisoned by colored troops.

Q. You were there nearly three years altogether?—A. Yes, sir.

Q. That is what I understood you to say. First, what is the population, in the aggregate, of Brownsville? How many people live there?—A. I believe it is considered to be about 8,000.

Q. Eight thousand, you think. What kind of people, as to nationality, live there?—A. I do not think there are any actual figures on it. I think the common figures that are usually given are about 7,000 Mexicans and half-breeds, and the rest are Americans or whites.

Q. That is, out of 8,000 perhaps only 1,000 are full Americans and 7,000 would be full Mexicans and half-breed Mexicans?—A. Yes, sir.

Q. I am requested to ask you whether there is any negro population there?—A. Well, not to amount to much.

Q. Very few negroes?—A. Very few.

Q. During the time you were there tell us whether or not your own troops, of the Twenty-sixth Infantry, had any troubles with the citizens of Brownsville.—A. Yes, sir.

Q. First, let me ask you, are you familiar with the police force of Brownsville, during the stay that you made there?—A. Yes, sir; pretty well.

Q. Of what did that force consist, and who constituted it—I mean as to its personnel—Mexicans or Americans or what?—A. As I remember it, the majority consisted of Mexicans.

Q. Of the police force?—A. Yes, sir.

Q. Do you know how many there were of them?—A. I think they had in the neighborhood of a dozen policemen, sir—that is, actual policemen, not counting the chief of police.

Q. Did I understand you to say that the great majority of them were Mexicans?—A. Yes, sir.

Q. Were they Mexicans who could speak English or men who had to have an interpreter when they wanted to talk to Americans?—A. They might be able to speak English well enough to find out a direction from them or something like that, but they could not speak English well enough to properly convey any connected or lengthy conversation.

Q. What was the attitude, so far as you could observe, of that police force toward the men of your command—friendly or otherwise?—A. They seemed to be always more or less eager to do their police duties; and it seemed to me, as far as my personal opinion goes, that they were rather against the average soldier.

Q. They were zealous, were they?—A. Yes, sir; very zealous.

Q. In policing the soldiers. State whether or not your men had any difficulties with them—any trouble getting along with them or with other citizens of the town.—A. I do not think that the Twenty-sixth had any trouble with any citizens of the town that I can remember, other than with the police; and all the clashes that happened between the Twenty-sixth and the police were individual disturbances between one or two men and one or two policemen, as well as I can remember.

Q. Can you recall how many there were of those clashes?—A. No, sir.

Q. Such as you have described?—A. No, sir.

Q. How many, probably, were there? I mean did the clashes you have described occur frequently or only in rare instances?—A. Well, usually one or two every pay day. They would average one each pay day.

Q. Averaged about one a month, then?—A. That was at first, when we first got there.

Q. For how long a period did that continue to happen, about one a pay day?—A. I don't remember exactly; but I was Lieutenant-Colonel Cook's adjutant, and one of these disturbances occurred in which it was plainly admitted at the time that the policeman had been too hasty in his action, and at the commanding officer's direction

I wrote a letter to the mayor of the town complaining of such treatment, and it was stopped a great deal after that.

Q. Stopped a great deal after that?—A. Yes, sir.

Q. Do you remember the name of the soldier involved in that case where you wrote the letter?—A. No, sir.

Q. State whether or not it was an unusual thing to hear the discharge of firearms in the nighttime, round about your reservation, or outside of it, but in town or in that vicinity.—A. Well, the frequency with which the shots were heard would be considered very unusual in any large-sized and probably in any interior town, but I would not consider that it was unusual to hear shots fired in the vicinity of Fort Brown, around Brownsville.

Q. That is to say, you heard them frequently in the nighttime?—A. Yes, sir; frequently. Sometimes there would be weeks pass without it, and then another night there might be a regular fusillade turned loose somewhere.

Q. So that it was not an astonishing thing to hear of a shooting affray in Brownsville?—A. No, sir.

At 4 o'clock p. m. the committee adjourned until Wednesday, March 13, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, March 13, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Lodge, Bulkeley, Hemenway, Warner, Pettus, Foster, and Overman.

**TESTIMONY OF SECOND LIEUT. EDWIN POTTER THOMPSON,
U. S. ARMY—Continued.**

By Senator FORAKER:

Q. When we adjourned yesterday you were being interrogated about hearing firing in the vicinity of Brownsville.

(Senator Foraker here read aloud the last two questions and answers preceding the adjournment of yesterday afternoon.)

That is correct?—A. Yes, sir.

Q. Now, Lieutenant, can you tell us whether or not there was any firing in the vicinity of the officers' quarters in the year 1906, either gallery practice or target practice, or any other kind of practice—I mean firing of the Springfield rifles—after you got there?—A. I think the competitors for the department or division competition practiced their skirmish runs in the range right back of what they called B quarters.

Q. The target range had been established at that time down at Point Isabel, as I understand?—A. Yes, sir.

By Senator WARNER:

Q. That was in the rear of B quarters?—A. Yes, sir.

By Senator FORAKER:

Q. That is officers' quarters, and not B barracks?—A. No, sir; B quarters.

Q. When you refer to quarters, you mean officers' quarters?—A. Yes, sir.

Q. There is a map, and you will see that the quarters are indicated over where that arrow points. Do you understand the location?—A. Yes, sir.

Q. Where are B quarters on that map?—A. That is called B quarters on the quartermaster's records [indicating].

Q. What is that? We have never had our attention called to that before is the reason that I am asking you.—A. That is a very, very small set of quarters that, ever since I had been at Fort Brown or had heard about it, had been used by the quartermaster's clerk.

Q. The quartermaster's clerk?—A. Yes, sir.

Senator WARNER. Suppose you say that that is between the river and officers' quarters 11 and 12 on the map?

The WITNESS. Yes, sir.

Senator WARNER. That will locate it.

By Senator FORAKER:

Q. It was in rear, then, of that building that you have just pointed to that this firing occurred?—A. Yes, sir.

Q. Was there a range there of some kind?—A. Yes, sir; a temporary range.

Q. How much of that firing went on there, if you can tell? Give us some idea.—A. I think there were three or four competitors who practiced skirmish there, but I do not know how much practice they had.

Q. Did they or not indulge in a good deal of practice when they were getting ready for competitive drill? That is, each man did a good deal of firing. Do you remember?—A. I do not remember how much the men fired, because I was not attached to any company and was not watching it.

Q. And you had nothing to do with that firing?—A. No, sir.

Q. You only remember the occurrence in a general way?—A. Yes, sir.

Q. But, as a matter of fact, when men are getting ready for a competitive drill they do a great deal of that firing, as a rule. do they not, to get ready for it?—A. Yes, sir; if they think they need it.

Q. They never get too perfect, in their own estimation. I suppose, beforehand, do they?—A. I think some have; yes, sir.

Q. Well, I will pass that, if you do not know about it.

Senator WARNER. It is a human frailty.

Senator FORAKER. Yes.

By Senator FORAKER:

Q. When your battalion left you remained behind in charge of this detachment?—A. Yes, sir.

Q. Will you please tell us again—I do not know if I asked you, but will you please state again—how many men remained behind, constituting that detachment?—A. The detachment proper consisted of about 15 men from each of three companies; about 45 men.

Q. Forty-five men out of the three companies?—A. Yes, sir.

Q. Did you not have four companies there at the time that you left? Had not I Company also joined, from Fort McIntosh?—A. Yes, sir; it had. We had 10 men from each of the four companies—about 40 men.

Q. About 40 men?—A. Yes, sir.

Q. Where were these men quartered when they remained there?—A. They were quartered first in their barracks. As I remember, the detachment of each company remained in its barracks until the property could be properly taken up and the buildings locked up, and then they were all moved into barracks No. 36, in order that the three companies of the Twenty-fifth might go into 33, 34, and 35.

Q. Which is 36 on that map?—A. The one nearest the guardhouse.

Q. The one you referred to as unoccupied?—A. Yes, sir; it was in poorer condition.

Q. Your men all moved into that before the men of the Twenty-fifth came?—A. Yes, sir.

Q. Vacating the other barracks?—A. Yes, sir.

Q. Can you tell us whether or not when your battalion moved out of those barracks they left behind any odds and ends in the way of clothing and accouterment and shells or cartridges, or any such things as soldiers have?—A. No, sir; I could not tell if they left anything in particular, but they left the usual amount of things that they did not wish to take with them, and worthless objects, and things that they did not care for.

Q. Do you remember observing whether they left any cast-off uniforms or any parts of uniforms, trousers, or anything of that sort?—A. No, sir; I do not remember seeing any.

Q. Did you go through the barracks on an inspection tour after they left?—A. I went through first the morning they left; I just went through them to see that everything was all right.

Q. Did you observe anything of this kind left behind in the barracks; or in what condition were they left. That is what I want.—A. Yes, sir; left in what I call the proper condition to be left. They are supposed to be cleaned up. That is, not necessarily all cleaned out, but all truck and undesired articles gotten together and easy of removal.

Q. That is, all kinds of truck and undesired articles that they did not want to take with them were gathered together in each place, in each barracks?—A. Yes, sir; or in a pile in each room, or something like that.

Q. There were such piles of left-behind articles, were there not?—A. Yes, sir.

Q. Where were they, in the barracks or out on the porches behind?—A. Some in the barracks, I think. They were on the porches, and some in the rooms, just swept up in a corner.

Q. They have porches both in the front, toward the parade ground, and also in the rear, toward the wall, as I understand it?—A. Yes, sir.

Q. On which porches were they, the back or the front?—A. The back, sir.

Q. On the back porches?—A. Yes, sir.

Q. Can you tell us what those piles of cast-off articles—I will

use that term for the reason that I do not know of a better one—consisted of?—A. No, sir.

Q. You did not make an examination of them to see?—A. No, sir.

Q. State whether or not you gave any instructions to anybody to further go through the barracks and look after them.—A. I gave instructions to Post Quartermaster-Sergeant Osborne.

Q. He was the quartermaster-sergeant of that post?—A. Yes, sir.

Q. He did not belong to the Twenty-sixth Infantry?—A. No, sir.

Q. He is a white man?—A. Yes, sir.

Q. He had been there how long, if you can tell us?—A. He had been there quite a while.

Q. Had he been there practically all the time you were there?—A. No, sir.

Q. He came there after you did?—A. Yes, sir.

Q. What were your instructions to him?—A. Just to see that the quartermaster property for which I was accountable, that had been left in those barracks, was properly collected together, and that the buildings were locked up as much as possible.

Q. How long a time did these several detachments from the several companies—10 from each company, as I believe we have it now—remain in their respective barracks, if you can tell us?—A. Not more than three or four days, I believe, sir.

Q. Until they moved into the other barracks?—A. Yes, sir.

Q. What company had been occupying the barracks No. 36, into which they moved?—A. I Company.

Q. I Company. Was that building unoccupied during the absence from Fort Brown of I Company?—A. Yes, sir; it was unoccupied by troops. It was used as a storehouse.

Q. It was used as a storehouse. What was kept in there?—A. Quartermaster's supplies, and things we hardly had room for in the other storehouses.

Q. Were they quartermaster's supplies that belonged to the post generally, or quartermaster's supplies that belonged to the respective companies?—A. Post quartermaster's supplies.

Q. Unissued supplies, I suppose. What did they consist of?—A. They consisted of a little of everything. There was some grain in the building.

Q. Any uniforms?—A. No, sir; no clothing.

Q. You did not keep any clothing; just accouterments of other kinds besides clothing?—A. Quartermaster's supplies; a plow, and old harness, and some things for condemnation.

By Senator WARNER:

Q. You had nothing to do with the accouterments?—A. I had to do with the clothing.

Q. But not with the arms?—A. No, sir.

Senator FORAKER. That is all that I want to ask him.

By Senator WARNER:

Q. Lieutenant, in leaving a barracks, it is a duty to see that it is properly cleaned?—A. Yes, sir.

Q. That was done in this case?—A. Yes, sir.

Q. When you say you left an amount of useless things, what do

you mean by that?—A. I mean the natural dirt and rubbish that is around a house after anybody moves out of it.

Q. Would not that dirt and rubbish be removed if you policed it properly?—A. If you policed it absolutely properly; but the Twenty-sixth Infantry left there in a very short time, and all the companies could possibly do was to get ready, from the time they were ordered to leave until the time they left, and they got things ready so they could be removed by my detachment.

Q. And you saw the condition of the barracks?—A. Yes, sir.

Q. You saw these piles of rubbish that you speak of?—A. Yes, sir; not very large piles; some.

Q. That is what I want to get at. We do not know. We are trying to get at it.—A. Yes, sir.

Q. That rubbish consisted of the sweepings of the floor, did it?—A. Yes, sir.

Q. No uniform?—A. Not that I saw.

Q. You would have seen it, would you not?—A. I might have noticed a blue uniform, but I might not have noticed a khaki coat, or something like that.

Q. Would you think it was properly policed with a uniform left in the quarters when you left?—A. It was not exactly properly policed, but it was policed the best they could do it in the time they had.

Q. They did not have time to remove cast-off clothing? Do you want to be understood, as saying that, Lieutenant?—A. They could have removed it all properly, but it seemed to be that all the company commanders evidently just had this rubbish collected where it could be easily removed.

Q. Was there any ammunition among that rubbish?—A. Not that I know of. I did not inspect the piles, sir.

Q. You saw no clothing?—A. I saw no clothing; no, sir.

Q. It was simply the dirt that had accumulated?—A. Dirt was all I noticed; yes, sir.

Q. This barracks 36, which was used as a storeroom before the detachments—the 40 men—moved in there—A. Yes, sir.

Q. In that you kept grain and such things as that?—A. Yes, sir.

Q. No clothing?—A. No, sir.

Q. And, of course, you had nothing to do with the guns or ammunition, or anything of that kind?—A. No, sir.

Q. And now, about this range—the firing range. As I understand, there were three or four men that fired there?—A. That is what I believe, sir. I am quite sure of it, sir.

Q. Do you know when that was?—A. I do not know exactly when it was, but it was a short time before these men went up to the competition.

Q. When did they go to the competition?—A. I do not remember the date of the competition, but I believe that the competition was held practically at the time that the Twenty-fifth came to Brownsville, if I remember right. And I think that the competitors of the Twenty-fifth Infantry on their return were held up at Fort Sam Houston. That is the only way I can locate the time.

Q. Were you out when those men were having practice shooting there in this range?—A. No, sir.

Q. Do you know who the men were?—A. I can only remember one. That is Corporal Zimmerman, of Company L.

Q. You saw no cartridges lying around the quarters there—loose cartridges?—A. No, sir.

Q. If there had been any you would have seen them in policing the quarters?—A. I might not have seen them if they had been swept up in these little dirt piles; but I mean in the artificer's storeroom I did not see any.

Q. But cartridges could have been swept up in these little dirt piles?—A. They might have been.

Q. And that would be no extraordinary thing?—A. It would be extraordinary in this, that a man is supposed to keep his ammunition.

Q. I am asking now as to the conditions.—A. Yes, sir; there might have been some in there, and I would not have been surprised if I had gone through those piles and found some shells.

Q. Suppose that you had gone through those piles and found there from 10 to 25 shells; that would not have surprised you?—A. It would have surprised me if I had found that in any one quarters.

Q. How much would you have found not to have surprised you, Captain?—A. It would not have surprised me if I had found two or three in a barracks.

Q. Any time?—A. Yes, sir; in the storeroom where the ammunition was kept.

Q. But we are talking now of where this rubbish was swept up.—A. Oh, I would not expect to find hardly any there. The only place you would find it would be where a pile of rubbish was swept out of a storeroom.

Q. Oh, in the rubbish that was swept out of a storeroom you might find some?—A. Yes, sir.

Q. That would not surprise you?—A. No, sir.

Q. You have been in the Army how long?—A. For nearly five years.

Q. And connected with the Twenty-sixth Infantry that time?—A. Yes, sir.

Q. Did you go down to this range where these three or four men were shooting?—A. At various times, yes, sir; not when the men were shooting.

Q. They were using the Springfield rifle?—A. Yes, sir.

Q. I asked you if you went down there when they were doing the shooting?—A. Not when they were doing the shooting; no, sir.

Q. No time?—A. No, sir.

Q. So that you know nothing about how many cartridges they used or did not use?—A. No, sir.

Q. Do you know whether they were using ball cartridge or reduced range cartridge?—A. They must have been using the regular ball cartridge, because they were shooting 600 yards.

Q. Shooting 600 yards; across the river?—A. No, sir; down nearly parallel with the river.

Q. Those men shooting there might drop cartridges around?—A. Yes, sir; they might.

Q. And if you had gone down where these three or four men were doing the range shooting you would not have been surprised if you had found several cartridges around?—A. No, sir; you might find them.

Q. Where there were only three or four men doing the shooting?—
A. Yes, sir.

Q. That would not surprise you because it would be nothing unusual?—A. It would be rather unusual, because a man would usually start out at the 600-yard mark with just the proper number of shells to do his practice with, and he probably would not lose any on the way down if he could help it. He might accidentally lose one or two out of a clip, but not likely.

Q. A cartridge might drop out of a clip?—A. Yes, sir.

Q. Would be liable to drop out of a clip, and he would lose it in that way?—A. Yes, sir.

Q. So that you would not have been surprised if you had found cartridges on the range?—A. No, sir.

Q. Or you would not have been surprised if you found cartridges in a pile of dirt swept out of a storeroom?—A. Small quantities.

Q. Small quantities in each barracks?—A. Yes, sir.

Q. When you speak of small quantities, what number do you mean?—A. Not more than two or three out of a barracks.

Q. About how often did you sweep up the barracks?—A. I was never in command of a company, and I could not tell you that.

Q. You have been in the Army, and you know something about the policing of barracks and quarters?—A. Yes, sir; they are supposed to give the barracks a thorough cleaning every week.

Q. That is what I supposed.—A. Yes, sir.

Q. All parts of it?—A. Yes, sir; all parts of it, for the regular Saturday inspection.

Q. So that when the inspector goes there, if he finds anything wrong, some one has got to answer for it?—A. Yes, sir.

Q. If he finds any useless rubbish lying around the quarters, or any extra ammunition scattered around on the floor? That is, everything has to be absolutely tidy and in order?—A. Yes, sir.

Q. And clean?—A. Yes, sir.

Q. And that inspection is at least once a week?—A. Yes, sir.

Q. What day of the week is that inspection?—A. Saturday.

Q. And what day was it that these 10 men that had been left in each one of these quarters moved from barracks B, D, and C into barracks No. 36?—A. I do not remember what day it was.

Q. Do you remember what day of the week?—A. No, sir.

Q. The Twenty-sixth Infantry was well officered, was it not?—A. I considered it so, sir.

Q. And the police regulations of the camp were strict and well observed?—A. Yes, sir.

Q. That would be your observation of it?—A. Yes, sir.

Q. And you had been in Brownsville how long?—A. I had been there since about September 4, 1903.

Q. You say there was some objection to the colored troops coming there?—A. That is what I heard, sir.

Q. Do you know anything about objections to the colored troops going to other posts, by people living in the surroundings?—A. Do you mean any other posts in the United States?

Q. Yes.—A. Yes, sir.

Q. What post?—A. Salt Lake City, sir; Fort Douglas.

Q. What objection was there in Salt Lake City to the colored

troops going there?—A. I do not know what the objection was, except that the objection was made at one time.

Q. Pretty strenuous objection?—A. I believe it was, sir. I don't know much about it, sir.

Q. Were you there?—A. No, sir.

Q. What other posts did you hear of?—A. That is the only instance I can think of at present, sir.

Q. Well, Lieutenant, from your experience and knowledge, do you not know the fact that it was generally objected to—having colored men come to a post where white men had been?—A. That is what I have always heard. For myself, I only know of this one instance.

Q. I know: but that is your understanding as an officer?—A. Yes, sir.

Q. You heard some remarks made down at the White Elephant, or some place in Brownsville?—A. No, sir; I did not hear it at the White Elephant.

Q. Where was it you heard the remarks?—A. I heard the remarks in front of—well, I heard it at various places. The only remark that my affidavit specifies as to who told me—I heard that in front of Mr. Bolack's store.

Q. Yes. Who made that remark?—A. A man named Teofilo Crixell.

Q. What was his business?—A. He was the manager of a saloon.

Q. A Mexican?—A. I don't know exactly what his nationality is, sir. I think he is French, though; French and American.

Q. To whom was he talking?—A. Talking to me.

Q. What did you say in reply to it?—A. I did not say much of anything that I remember, except that I probably made some remark about it being too bad, or something like that, that any trouble had occurred; some such remark.

Q. He was expressing his regret, was he not, in that conversation, that you and your command were going to leave there?—A. No, sir; not that conversation, at all.

Q. Well, was he expressing the hope that you were going away?—A. No, sir; he was speaking only about this incident that occurred.

Q. How did that incident come up?—A. In the conversation between us, or the incident itself?

Q. In the conversation.—A. I was walking down the street, and I had heard something about this trouble before I met him out in front of Mr. Bolack's store, and it was his brother who owned this saloon where the trouble had occurred.

Q. That is, the White Elephant?—A. Yes, sir; it was owned by Vincinte Crixell, who is his brother; and I thought he would probably know about it, and I asked him what had been the trouble, and he replied to me as stated in the affidavit.

Q. That is, the trouble with the colored soldier?—A. A colored soldier and a man named Bates.

Q. Were any colored soldiers then stationed at Brownsville?—A. At that time; yes, sir.

Q. That was after the Twenty-fifth came there, then?—A. Yes, sir.

Q. Yes. That is what I wanted to get. It has not appeared before.—A. Yes, sir.

Q. And what was the name of this colored soldier? We have not had that yet.—A. I don't know his name, sir.

Q. You did not see that difficulty, or whatever it was?—A. I did not see it; no, sir.

Q. You simply knew that that had occurred in the saloon called the White Elephant?—A. Yes, sir.

Q. A difficulty between this man Bates and a colored soldier?—A. Yes, sir; that is what I was told.

Q. Which grew out of some controversy about the colored soldier not being allowed to drink at the same bar with the whites?—A. I do not know, except I got that from Teofilo Crixell.

Q. You got that in that way?—A. Yes, sir; I got that in that way, and the complete information, the only information, was from Teofilo Crixell, as given there, as to the details of the business.

Q. And from this party who saw this difficulty you got it that the soldier came in and wanted to get a drink at the same bar?—A. Yes, sir.

Q. And this man Bates objected to that?—A. Yes, sir.

Q. And then there was a controversy?—A. Yes, sir.

Q. And then the colored man said that he was as good as any white man, and Bates hit him over the head with a revolver?—A. Yes, sir; words to that effect.

Q. That is, in substance?—A. And then he hit him; yes, sir.

Q. Who was Bates?—A. Bates, as well as I can remember, was a United States deputy collector, or deputy marshal, I am not sure which.

Q. A United States officer?—A. Yes, sir.

Q. Did you ever meet him?—A. Yes, sir.

Q. Did you meet him in a business way?—A. No, sir; I never had any business with him.

Q. Gentlemenly, was he, when you met him?—A. He always acted gentlemenly when he was with me, sir.

Q. Did you ever meet him in a saloon?—A. Yes, sir.

Q. Did you take a drink with him?—A. I do not think so.

Q. Did you ever meet him in the White Elephant?—A. No, sir.

Q. But you have met him there, socially, around?—A. No, sir; I never met him socially—that is, socially in distinction from a business way; yes, sir.

Q. How were you treated in Brownsville?—A. I was treated very well, sir.

Q. And your command was treated the same way?—A. The officers were; yes, sir. Some of the men were not.

Q. Were you ever present at any time when one of your men was ill treated?—A. No, sir; I never saw any ill treatment at all.

Q. And it is a fact, is it not, Lieutenant, from your experience of five years in the Army, even, you know, that soldiers are apt to get into some more or less difficulty with the citizens?—A. Yes, sir; they are apt to get into difficulty, but not more apt than any other personal brawl, or anything.

Q. And I think in your direct examination—if I am wrong you will correct me—you said these difficulties occurred about pay day, that you heard of?—A. I said that they usually occurred, one or so, about pay day.

Q. And that is the difficulty you refer to?—A. I don't know exactly when those difficulties occurred.

Q. Yes; but you stated one or two usually every pay day?—A. Yes, sir.

Q. And the unfortunate fact is that on pay day, more or less, the men would drink a little too much, would they not?—A. Not more of it; no, sir. The trouble was—

Q. I did not say more. I said more or less.—A. Oh, they would drink more or less; yes, sir.

Q. Some of them would drink to excess?—A. Yes, sir; very probably.

Q. And a soldier intoxicated is as apt to get into difficulty as a citizen is?—A. A little more apt to, on account of his uniform.

Q. A little more apt to on account of his uniform?—A. Yes, sir; not from his fault, though.

Q. You say the police force there seemed to be very zealous?—A. Yes, sir.

Q. Were you acquainted with the policemen?—A. No, sir.

Q. You knew Mayor Combe, did you not?—A. Very well, sir.

Q. A very strict man, was he not?—A. Yes, sir; he was a very good man.

Q. He had been mayor how long before you left Brownsville?—A. I don't know for how long, but it was for quite a while. He had been in office for some time.

Q. A year or two?—A. I think it was over a year.

Q. And the fact is that he was very intimate with the officers?—A. Yes, sir.

Q. And was very kind toward the soldiers, was he not?—A. Yes, sir; he was. You might call him the best friend that the soldiers had.

Q. As you understood, he had been a soldier himself?—A. Yes, sir; he was a surgeon.

Q. You knew Mr. Kelly there, did you not?—A. Captain Kelly?

Q. Yes.—A. Yes, sir.

Q. What was his business?—A. Banking business.

Q. One of the leading citizens there, was he not?—A. Yes, sir.

Q. You understood that he was a civil-war veteran?—A. Yes, sir; I think he was. I am not sure, sir.

Q. He was very considerate of the soldiers, was he not, and of the officers?—A. He was very nice to all the officers. I do not know anything about his dealings with any of the men.

Q. You do not know anything about that?—A. No, sir.

Q. There were very few colored people in Brownsville?—A. A very small colored population.

Q. And you say the population of Brownsville is about 8,000?—A. I think it is somewhere around there, yes, sir; I am not sure.

Q. Mexicans and half-breeds, you say?—A. The greater majority.

Q. By "half-breeds" you mean Mexicans intermarried with Americans?—A. Yes, sir; or French.

Q. German or French?—A. Yes, sir.

Q. You do not mean intermarried with colored people?—A. No, sir.

Q. There were a great many Mexicans there in business, were there not?—A. Yes, sir; a good many Mexicans there in business.

Q. The fact is that most of the leading business men there were Mexicans, were they not?—A. Mexicans and Spaniards. There were a good many good Spaniards there in business.

Q. People whom you would call first-class citizens?—A. Yes, sir; that is, good citizens of the town, as far as good citizenship went.

Q. They averaged the same way that way as any other western town, did they not?—A. As any other western border town, yes sir. I do not think there were as good citizens there, or as many of them, as you would find in a western interior town.

Q. That is, in a farming community?—A. Yes, sir.

Q. You visited with families there?—A. A few of them; yes, sir.

Q. Were you married?—A. Yes, sir.

Q. And your wife visited and received visits?—A. Yes, sir.

Q. About how many did you visit there?—A. Well, we visited and received at our house not more than a dozen at most.

Q. Did that comprise the number of families there were in Brownsville whom you thought fit to visit with?—A. No, sir; it did not comprise the number of families in Brownsville that I thought fit to visit with, but they were the ones I picked out to be our associates.

Q. That is, your intimates, rather?—A. Yes, sir.

Q. Now, you say that the policemen could speak English, so as to give or receive directions?—A. Yes, sir; about streets, or something like that.

Q. That is, if you would go to a policeman and ask him to direct you to Elizabeth street, he would direct you?—A. Yes, sir; principally by signs, if you could not understand Spanish.

Q. Or if you wanted him to direct you to any part of the city, he could, so far as you know?—A. It is a pretty small town. I think he could; yes, sir.

Q. Did you ever ask a policeman to direct you to any part of Brownsville?—A. No, sir.

Q. Did you ever hear anyone ask a policeman to direct him?—A. Yes, sir.

Q. What direction did he give?—A. The policeman could not do it.

Q. Could not direct him?—A. In this case; no, sir.

Q. Because he could not speak English?—A. Because in this case he did not understand the word "depot;" he did not know what the man was talking about.

Q. Possibly he did not pronounce it the way he pronounced it?—A. Probably not.

Q. How were the policemen dressed?—A. At what time, sir; when we first went there?

Q. Yes.—A. They were dressed in most any old kind of citizen's suit; no badge or distinctive mark.

Q. Which frequently occurs in interior towns, does it not; the policemen not uniformed?—A. Not uniformed; no, sir; but they usually have some sign of authority.

Q. And after Mayor Combe came in they were dressed in a blue uniform?—A. Some time after he came in.

Q. They were then uniformed, you say?—A. Yes, sir.

Q. As far as you were concerned personally, and as far as you

know personally, you were treated courteously by the people of Brownsville?—A. Yes, sir.

Senator WARNER. I think that is all that I want to ask.

By Senator FORAKER:

Q. You speak of them having a blue uniform after Mayor Combe went into office?—A. Yes, sir.

Q. State whether or not at any time before you left there they had a different kind of uniform.—A. Yes, sir; they had.

Q. What kind of a uniform did they have in the summer of 1906?—A. They had a khaki uniform with a broad brimmed campaign hat.

Q. State how it compared in color with the khaki uniform of the soldiers.—A. I think it compared exactly, sir. I think it was just American khaki cloth.

Q. State whether or not, seeing a policeman at night in that kind of a uniform, you could tell him, so far as the uniform was concerned, from a soldier dressed in his khaki uniform, speaking simply of the uniform.—A. Looking at a policeman from the rear you might not, but in a bright light, a front view, you could probably notice, if I remember the uniform correctly, the absence of the breast and hip pockets.

Q. But I am speaking of the nighttime, when you did not have a bright light?—A. No, sir.

Q. Just seeing a man passing, not under a bright light; much more, not under any light except that of the stars. In other words, there was a close similarity, was there not, in general appearance, between the khaki uniform of the policemen and the khaki uniform of the soldiers?—A. Yes, sir.

Q. One or two other questions. You said a while ago that you thought a soldier, speaking of towns generally, might be more quickly arrested—I am not sure that that is the exact expression—on account of his uniform.

Senator WARNER. That he might more frequently get into difficulties.

By Senator FORAKER:

Q. Yes; that he might more frequently get into difficulty on account of his uniform?—A. Yes, sir.

Q. You had reference to Brownsville in that connection, or to any town?—A. I had reference to any town.

Q. You think there is such a prejudice against a soldier because he is a soldier that he would more quickly get into difficulty?—A. Not at all, sir.

Q. Was there or not among the people of Brownsville a prejudice, an antagonism and hostility of feeling toward the soldiers that was not common to the communities in other towns?—A. Yes, sir; I think there was.

Q. There was?—A. I think so.

Q. That is, a soldier would be more likely to get into difficulty on account of his uniform at Brownsville than in other cities?—A. I meant by that, sir, that a man with a uniform on is practically a marked man. He has not any leeway, provided he has a Government uniform on.

Q. You do not wish to modify your statement read from the affidavit at the beginning of your examination in any way, do you?—A. No, sir; that is correct.

Q. Now, as to this Teofilo Crixell, or "Chishell," as we have been calling it, he is the man that I am referring to, what business was he engaged in?—A. Teofilo Crixell was the manager of a saloon.

Q. And what was the name of his saloon?—A. Crixell's saloon.

Q. How many saloons are there in that town, I mean in the prominent part of town, along Elizabeth street and other principal streets, if you can give us some idea?—A. On Elizabeth street, in the same block with this Crixell's saloon, there was at one time Crixell's saloon and the International saloon and Odom's saloon and Jagou's saloon; there were about four right on that block, on the average. Some of them went out of business and others sprung up. There was on an average about four.

Q. State whether or not the saloon business in Brownsville is a thriving business, according to your observation?—A. I think it is a paying business; yes, sir.

Q. That is what I mean.—A. Yes, sir.

Q. Patronized pretty liberally?—A. Yes, sir.

By Senator OVERMAN:

Q. You do not mean to say that there are only four saloons in a town of 8,000 inhabitants?—A. No, sir; that is just on that block.

Senator FORAKER. That is just on that one block.

Q. How many are there in the town?—A. I do not know, sir. I do not believe there are more than eight or ten saloons where they have both a whisky and beer license. But there are quite a number of little beer saloons.

By Senator FORAKER:

Q. I will ask you if they have places there where they sell what they call mescal, not held out as saloons?—A. I have never been able to know, to find out, anything about that, because it is prohibited; but mescal can be purchased in Brownsville.

By Senator FOSTER:

Q. Does the presence of a soldier contribute anything to the profits of a saloon?—A. A good per cent of the pay-day money goes to the saloons. I think; yes, sir.

By Senator OVERMAN:

Q. Are there any saloons on Adams street, away out in the suburbs?—A. No large ones that I know of, at all.

Q. Any small ones?—A. There may be some of those little beer saloons that I speak of.

Q. Are there any gambling houses out there?—A. Not that I know of, sir.

By Senator FORAKER:

Q. I will ask you if there are gambling houses connected with these 10 or 12 principal saloons you speak about in the principal part of the city? Are they a common adjunct?—A. When the Twenty-sixth first went there they had a little gambling attachment to the house—roulette and a good many of the different gambling games; but that

has since been stopped, except that I think most all of these saloons have a poker game going on all the time.

Q. Most all of them?—A. Yes, sir.

By Senator FOSTER:

Q. Is it not a fact that the laws of Texas make it a crime and absolutely prohibit gambling in any public place?—A. I am not sure about the law, but I think it is correct. I know that is the reason they stopped this roulette playing, because they said it was against the law. I don't know what the law is, exactly. Mayor Combe tried to stop it, and succeeded, in all public places.

Q. The law of Texas is that gambling in any public place with cards, dice, or anything else is made a crime.—A. I do not know, sir, myself.

By Senator FORAKER:

Q. Mayor Combe worked a number of reforms, did he not?—A. Yes, sir.

Q. After he became mayor?—A. Yes, sir.

Q. Now, you said the Twenty-sixth left quickly. Is it not a fact that you had notice for some time before you left that you were to leave? When you say you left quickly, do you mean that when the order finally did come you were required to move quickly?—A. Yes, sir; if I remember correctly it was decided that we should leave on the 5th of July, and it was decided just a day or two before, and one of the intervening days was naturally the 4th of July, and one of the other days was a Sunday.

Q. So that by saying you were required to move quickly you do not mean that you did not know that you were to leave some time in the future?—A. No, sir; we knew that we were to leave some time before.

Q. But the time between the time of your receiving notice to move and the date fixed for your moving was short?—A. Yes, sir.

Q. As to the target range, when men are on the target range is it not true that they are constantly under the eye and supervision of an officer and also of noncommissioned officers?—A. On the regular target range.

Q. Is it not true that when a man goes out for target firing or skirmish firing on the target range he is given a certain number of cartridges, and if he should not for any reason fire all of them he is required to take them back to the sergeant and turn them over; is not that the rule or the regulation?—A. The rule usually followed is that the artificer shall take the ammunition out to the range. He usually has the work of decapping the shells and washing them and putting them in a condition where they can be turned in to the ordnance department.

Q. Those are the shells that have been exploded?—A. Yes, sir; the shells that have been exploded. And as a man comes up and gets his ammunition the artificer is supposed to give him what he wants at that range, possibly ten shots.

Q. Stopping right there for a moment, is not all that done under the eye of an officer in charge of the firing?—A. An officer is on the range; yes, sir.

Q. What is he on there for—to supervise all these things, or what?—A. They are mostly there to supervise the shooting, sir.

Q. Suppose a man should be handed ten cartridges; is that the usual thing to fire?—A. Yes, sir; ten rounds is the usual number.

Q. He is supposed to fire ten if he is handed that number?—A. Yes, sir.

Q. Suppose for any reason, his gun getting out of order or anything of the kind, he should fire only six of those cartridges, what would he do with the other four?—A. He is supposed to hand them back to the artificer.

Q. Suppose he put them in his pocket; could he do it except under the eye of an officer, and with a liability, and a great liability at that, of being detected by the officer?—A. He might not be detected putting them in his pocket, and it might not be detected that he had not turned them back to the artificer.

Q. That is, he might not?—A. Yes, sir; he might not.

Q. But he would be liable to be?—A. Yes, sir.

Q. And if he should be found appropriating them in that way, what would be done with him?—A. It would depend on the man. Probably if it was the first time it was noticed the man would be warned and told to turn in his unused ammunition to the artificer.

Q. He would be warned?—A. Yes, sir.

Q. Whether anything more would be done with him would depend on whether he had a good excuse?—A. Yes, sir.

Q. Suppose it was discovered that he was simply trying to accumulate surplus ammunition, would he not be punished for that?—A. He would be court-martialed if the officer was convinced that the man was trying to get enough ammunition to sell.

Q. He would be disciplined for that, would he not?—A. Yes, sir; for appropriating Government property.

Q. The men are not allowed to appropriate ammunition in that way?—A. The men are not; no, sir.

Q. You are speaking, of course, only of your own regiment. You have had no experience with other regiments?—A. No, sir.

Q. You are speaking of the custom in your own regiment?—A. Yes, sir; I have had very little experience with company duties in my own regiment.

Q. Yes; you have been acting as quartermaster all the time?—A. Yes, sir.

Q. I wanted to ask whether the citizens of the town, while these articles you speak of as being piled up in the barracks which were vacated were there, had access to them?

Senator WARNER. I submit that he did not say articles were piled up.

Senator FORAKER. He spoke of it as dirt being piled up.

By Senator FORAKER:

Q. You did not investigate these piles to see what was in them?—A. No, sir.

Q. But you knew there was something in them?—A. Yes, sir.

Q. We will not assume anything except that they were articles of some kind or other.—A. Yes, sir.

Q. Well, I will just eliminate the piles altogether. After your troops left there to go to San Antonio, were those barracks open so that citizens could go through them, or come to the porches of the barracks—boys, children?—A. Yes, sir; they were open, with the

men of each company living in each barracks, up to the time they moved to barracks No. 36.

Q. And after that was there any guard over these barracks until the Twenty-fifth came?—A. The buildings were locked up, and the windows are barred, and there was no personal guard over them other than the regular patrol that was on the post.

Q. Were the porches locked up or barred?—A. No, sir; the porches are open.

Q. They were open, and I understood you to say that these piles were some of them on the porches—on the back porches?

Senator WARNER. I submit that there is no evidence of the kind.

Senator FORAKER. I submit that there is evidence of the kind; he said they were on the porches.

Senator WARNER. The record will show.

Senator FORAKER. Yes; turn to the record.

Senator WARNER. No; we will not turn to the record now, but the record will show.

Senator FORAKER. Why won't we turn to the record?

Senator WARNER. I simply called attention to it. We can have the record read. But I say the record will show.

By Senator FORAKER:

Q. Very well. I simply say that I asked you, when you said this dirt was on the porches, whether you meant the front porches toward the parade ground or the back porches toward the wall, and you said the back porches toward the wall. Is that correct?—A. Yes, sir.

Q. That is what you stated?—A. Yes, sir.

Senator FORAKER. I will ask to have the record turned to in a minute. I am not in the habit of misstating the record.

Senator WARNER. It is simply a difference of recollection; not serious at all.

By Senator FORAKER:

Q. You meant that you left trash on these back porches?—A. Yes, sir.

Q. Do you remember the condition your guns were in when you got them first—I mean the Springfield rifles? Do you remember whether they were oiled, and in what way?—A. Yes, sir; I remember about that.

Q. Will you tell us the experience you had with your guns when you first undertook to use them, in this particular, as to whether or not they would always fire the cartridge the first pull of the trigger or the first stroke of the firing pin, or whether there was some snapping of caps, I will say?—A. During the last target season I was range officer at the Point Isabel range, and M Company, of the Twenty-sixth, marched down there without their guns, because they knew that the new Springfield was to be shipped and that was the gun they were to use, and when they went on the range the first day there were quite a number of misfires, and it was finally found out by a man who had shot all his shots and was cleaning his gun that the mechanism of the gun was thoroughly protected from any moisture or rust by the Government cosmoline, and that the firing pin—the hollow tube through which the firing pin works—had been completely filled with that in order to protect the spring, and that

when first being used the cosmoline in there acted as a buffer against the spring and deadened the force of the blow. After that was cleaned out and the thin lubricating oil put on they worked all right.

Q. How long was it, perhaps, until you got your rifles to working all right, so that they did not snap in that way?—A. Just as long as it took a man to take the breech mechanism apart and clean it.

Q. I mean how many days was it after you commenced target practice, perhaps, until you got them in perfect working condition so that they would not snap caps, if they ever got to that place?—

A. They never get to the place where they will not snap a cap, not so much from the fault of the gun as of the cap. But as they were going on the range immediately, they got their guns, and I am sure they were all in good firing condition for the next morning's firing.

Q. On the first day they had this snapping of caps?—A. Yes, sir.

Q. And then there was some snapping of caps afterwards; but was it not a rare thing for the firing pin of a Springfield rifle to have to strike a cartridge twice in order to explode it?—A. Yes, sir.

Q. After these guns were put in working condition, whether it was one day or longer, and properly oiled and kept in condition, they were a pretty sure gun, were they not, in the matter of firing?—A. Yes, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. You speak of the number of saloons in Brownsville, a town of 8,000 inhabitants, and you say there were eight saloons, about that, in which beer and whisky were sold. You have some knowledge of the towns throughout the country?—A. Yes, sir.

Q. Was that an unusual number of saloons for a city of 8,000?—A. No, sir; I do not think it was.

Q. And as you say, the fact of it was that the soldiers spent a large portion of their money in the saloons?—A. Yes, sir.

Q. So that they contributed very largely to the support of the saloons that were there?—A. Yes, sir; I think they did.

Q. You were asked if gambling was permitted, and I think you said poker was a game that was being played.—A. I know that poker games are going all the time in most of those saloons, because they are right in open sight; but roulette and faro and all such games have been stopped.

Q. They have been stopped?—A. They have been stopped so far as I know; so far as any public playing goes.

Q. You said about moving from there in a hurry, in your reexamination by Senator Foraker, that the order was to leave the 5th of July, 1906. That did not apply to the detachments of 10 men from each company?—A. No, sir.

Q. It was the main body of the four companies that were there which were to move on the 5th?—A. Yes, sir.

Q. And then these detachments of 10 men from each company were left in each of the quarters B, C, and D?—A. Yes, sir. No; in all of them, 33, 34, 35, and 36.

Q. Until the Twenty-fifth came, and then they were all moved into 36?—A. Yes, sir.

Q. So that the policing of these barracks was left to the 10 men and the officers in charge when the main body left?—A. No, sir. The

final policing. All this dirt and débris had been piled together in these piles that I spoke of. That was simply left to be shoveled up and put in cans by the men left in each company.

Q. Was that shoveled up and put in cans?—A. Yes, sir.

Q. Then when they left there this débris was all removed?—A. Removed and put in the regular Government ash can that is placed out right between the wall and the barracks.

Q. Now, to get back to these piles that were left there—the sweepings. The question came up where you said cartridges might have been swept out of the storerooms. They were inside of the barracks?—A. Yes, sir; they were inside of the barracks.

Q. And there were no piles left on the porches; these piles of rubbish were not left on the porches when you left there?—A. Yes, sir; some were left on the porches; swept out of the halls, the back doors, I don't remember where, but there were piles of sweepings left on the back porches.

Q. They were left there in the hurry?—A. Yes, sir. They were left there from sweepings there the morning before they left, cleaning up; lots of it also in packing the property on wagons, and things like that.

Q. That was left when the Twenty-sixth left?—A. Yes, sir.

Q. You were left with 10 men in each company in your detachment?—A. Yes, sir.

Q. And they remained in these quarters possibly two weeks?—A. From the 5th to the 28th of July.

Q. That would be twenty-three days?—A. Yes, sir.

Q. So that they were there policing?—A. Yes, sir.

Q. And you say it was the order and the practice in your regiment that the policing had to be done of the camp—of the barracks?—A. No, sir; that is the regular Saturday morning inspection. It was supposed to have been done; yes, sir; with the—

Q. It was supposed to have been done? Is it not necessary to be done, and if it was not done, as you say, somebody would be called to account for not having it done?—A. When the regular garrison is there; yes, sir.

Q. Do you want it to be understood that when only 10 men are left with an officer in charge they can leave things around as they please, without any policing?—A. No, sir.

Q. Was not the barracks policed every Saturday?—A. Yes, sir; I had it policed every Saturday.

Q. For inspection?—A. Yes, sir; for inspection; but not with the formality that there would have been if the whole company had been there.

Q. But you would have it policed so as not to leave these piles of dirt around the corners of the barracks?—A. Yes, sir.

Q. And you would have them removed?—A. Yes, sir.

Q. So that each Saturday those piles were removed?—A. Yes, sir.

Q. And whatever piles of dirt were there must have accumulated between the time of the inspection and the time you removed it?—A. Yes, sir; moving all the things out of the storerooms, and so forth.

By Senator OVERMAN:

Q. As quartermaster did you have charge of the magazine beyond post No. 6?—A. No, sir.

Senator WARNER. He had nothing to do with that.

By Senator WARNER:

Q. Now, as to the policing; I understand that after you moved out of those quarters the doors were locked and the windows barred?—A. Yes, sir.

Q. And you moved out on the 28th of July?—A. No, sir; some time before that. That was when the Twenty-fifth came, sir.

Q. But the detachments of the ten men from each company moved out, so that we will not get confused—A. I moved them out and put them all together some time before the Twenty-fifth got there, and then tried to get the barracks—by using fatigue details of these men—into condition for the Twenty-fifth to get them arranged.

Q. That is, to get them cleaned up and in order so that they would pass inspection?—A. Yes, sir; so that the Twenty-fifth could go right in there and have their bunks ready and their kitchen utensils ready.

Q. And that was done in this case?—A. Yes, sir.

Q. Some question was asked about those barracks being left open. Citizens were not permitted to go into those barracks after you moved out of them?—A. No, sir.

Q. They could not have gotten in unless they had broken through a window or a door?—A. They would have had to break a lock or a catch.

Q. Were they permitted to take any rubbish away out of the barracks or out of the camp?—A. They were not permitted to. That was the duty of the scavenger.

Q. And it was the duty of your man on post around the barracks to keep any intruders away, or from taking anything of the kind?—A. Yes, sir; away from the barracks.

Q. Now, about the snapping of the new Springfield rifle when you first got it, you say that was the first day out on the range?—A. Yes, sir.

Q. And by the next morning they were all right as to that?—A. Yes, sir.

Q. But it was no uncommon thing for a Springfield at any time to "snap," as you call it?—A. No, sir; not uncommon.

Q. In shooting a whole season through you would have quite a number of shells that would refuse to explode?—A. No, sir; not uncommon. In shooting a whole season through you would have quite a number of shells that would refuse to explode; but it was probably due to the cap rather than to the gun.

Senator WARNER. That is all that I want to ask him.

By Senator FORAKER:

Q. There is one thing I thought I misunderstood the witness about. I understood you to say, in answer to Senator Warner, that these detachments of ten men from each company remained about three weeks in these barracks; and I understood you to say to me that after your battalion had been gone three or four days you moved with them out of the barracks into the unoccupied barracks.—A. I moved them out some time before the Twenty-fifth got there, in order that I could have some minor repairs made in there and get the bunks fixed up and the kitchen utensils. I do not remember when I made the change.

Q. And I understood you to say that all this débris—whatever it

might be, dust or what not—was taken out and put into a case behind the barracks—a box or something?—A. Yes, sir; an ash can.

Q. And who got it there?—A. The scavenger was supposed to pick up these things.

Q. And when was it you ordered the post quartermaster-sergeant, Osborne, to go through the barracks and look after them?—A. It was just the morning they left. Just as soon as the Twenty-sixth marched out and had left the station I told the sergeant to go through the barracks and see if all the property had been properly turned in, and if we had missed checking anything, and to see that the memorandum receipts were properly returned for the goods of the various company commanders.

Q. You spoke of a man on post, and did not tell us what post you had reference to. Did you keep a man on post around the barracks all the time?—A. No, sir; I had a mounted patrol.

Q. All around the post?—A. Yes, sir.

Q. All over the fort, you mean?—A. Yes, sir.

Q. He was not confined to any particular spot?—A. No, sir.

Q. They have been testifying about post No. 2 being the post that went around the barracks?—A. Yes, sir.

Q. Did you have that post there?—A. No, sir; I did not have that post.

Q. You never had it?—A. I never had but the one post. I had three mounted men, taking turns, riding around the post.

Q. Were they on in the daytime?—A. No, sir.

Q. So that when you were there there was not any sentinel or guard on duty in the day around the post?—A. No, sir; except the men themselves. The acting first sergeant slept right in No. 36, and stayed there, and he had orders, and the detachment had orders, that anybody coming in the post should be ordered out, any Mexican or anybody.

Q. But you had no regular guard on duty?—A. No, sir.

Q. I wanted to get an understanding of what you meant by the man on post. What time did those men go on duty?—A. At 6 o'clock in the evening.

Q. And remained on how long?—A. Until 6 o'clock in the morning.

Q. Were those men of your detachment?—A. Yes, sir.

Q. Where did you get horses to mount them?—A. From the quartermaster's department.

Senator FORAKER. That is all.

By Senator FOSTER:

Q. I wish you would explain how the cartridges are distributed at the target shooting, how many cartridges are taken out at each target shooting, and the manner of distribution among the soldiers who are engaged in the target practice.—A. There is no way to tell before you go out how much shooting is going to be done, so usually the company artificer takes the ammunition, maybe the complete full box, in the handcart, and goes out to the range with it, and usually takes up a position about 20 yards in rear of the firing point. The men sit down anywhere they can be comfortable until their turn comes to fire, about the same distance behind the point where the men are firing. When a man's turn comes to fire, he goes up and the

artificer hands him his shells, whatever the number may be. He may give him an extra one in case of misfire, or something like that, and the man goes to the firing point and fires his score.

Q. Does the artificer invariably give a man his shells, or is a man permitted to go and take the shells for himself?—A. Very often a man is permitted to go and take the shells, because the artificer is decapping shells, those that have been fired, and they come in these clips, and a man will usually just take two clips. Sometimes, in the present way of shooting them, they do not know how much a man is going to fire, they can not tell exactly whether he will fire at one range or two or three, and very often when they start out they will give each man a bandolier.

Q. How many cartridges in a bandolier?—A. I believe, sir, there are 60 or 70. There are ten in a pocket, and I think there are 60 or 70 in one of those bandoliers.

Senator FORAKER. It is testified here, I will state, if there is no objection, that there are 60 in a bandolier.

By Senator FOSTER:

Q. That is, the artificer will give each man a bandolier?—A. Yes, sir; he will give them a bandolier, so that they will not have to take all the ammunition, or any great heavy quantity of it, down to the firing point; and he fires as much of that as he may have, or they may fire more; they may have to send a man back to get more ammunition for the day's work.

Q. How much is a man supposed to fire at the targets?—A. About 360 actual shots. The allowance is 400. That is a record course.

Q. How long does it take them to make those shots?—A. It depends entirely on the weather and entirely on the—

Q. Are the shots all made during one target shooting?—A. A man's shooting may extend over a month, sir, before he gets through. First he has his preliminary shooting.

Q. Do I understand that if a man gets a bandolier, he keeps that bandolier with the cartridges in it until he finishes his target practice?—A. No, sir; he keeps it that day, until he has shot as much as he is going to, and then he is supposed to return it to the artificer, or return it to the company storeroom.

By Senator LODGE:

Q. Who is the artificer?—A. He is really company carpenter, and he holds that position and gets the pay of the grade.

Q. Does he keep an accurate record of all these shells returned?—A. No, sir.

By Senator FOSTER:

Q. Does he know how many cartridges he issues to each man?—A. No, sir.

Q. And he has no record of that?—A. Not in any company that I have ever seen, sir; no exact record.

Q. In speaking of the hostility of the citizens of Brownsville to the soldiers, you were there, I believe you stated, some year or two?—A. I was there very nearly three years.

Q. You were there very nearly three years, and you have stated to Senator Warner that during that stay you were courteously and well treated by the citizens of that town?—A. Yes, sir.

Q. And that every officer in your command was similarly treated?—
A. As far as I know, yes, sir.

Q. Did you ever hear of any complaint on the part of any officer of ill treatment by any citizen of that town because he was an officer?—A. No, sir.

Q. Did you ever hear of any complaint of a private soldier of ill treatment on the part of any citizen of that town because he was a United States soldier?—A. Not simply because he was a United States soldier, no, sir.

Q. At how many posts have you been stationed since you have been in active service, Lieutenant?—A. Six, sir.

Q. Please name them.—A. Plattsburg Barracks, Columbus Barracks, the Presidio, San Francisco, Cal.; Boulan, P. I.; Sorsigan, P. I.; and Fort Sam Houston.

Q. In each and every one of these posts was there not always or occasionally more or less friction between the private soldiers and the officers of the towns or cities in which you were located?—A. At the first two stations—I was there such a short time, and as a casual, that I could not say. In the first three—my stay at the Presidio was very short.

By Senator FORAKER:

Q. Plattsburg and the Presidio, and what was the other?—A. Columbus Barracks; and at both my stations in the islands I do not remember any current bad feeling between the natives or the people of the town and the one company that was at each of these posts, a small garrison.

By Senator FOSTER:

Q. Lieutenant, how was this bad feeling or prejudice evidenced on the part of the citizens of that town? You said they treated the officers well, and you know of no instance in which they treated any individual soldier badly on account of being a soldier. In what respect was this feeling evidenced?—A. The feeling was evidenced principally by the police.

Q. The feeling, then, was evidenced on the part of the officials of the town?—A. Not the officials—

Q. The police force of the town?—A. The police force of the town; yes, sir; not by the officials who were really in charge, not the city officials.

Q. In what respect was that ill feeling manifested?—A. Because there had been several cases, which I can not recall exactly, or the names, but there have been several cases where policemen have, without any cause or any reason, arrested a soldier and put him in jail, where a citizen doing the same thing would not have been touched.

Q. Lieutenant, will you give any case of your own knowledge where a soldier was arrested by an officer of Brownsville without any cause?—A. Yes, sir.

Q. A case of your own knowledge?—A. Yes, sir. K Company of the Twenty-sixth Infantry was on target practice, and a man was sent in for medicine. The distance was about 9 miles, and the company commander gave this sergeant or corporal a mule, and told him to strap on his revolver and go into town after this medicine. When that man, in his uniform, came into town, riding a Government mule,

with a Government saddle and a Government pistol strapped in sight, not concealed, a policeman went out in the street and held him up and took him and put him in jail.

Q. Charging him with what?—A. I don't know what he was charged with. He was put in jail.

Q. Was that the case Captain Kilburn instanced yesterday?—A. Yes, sir.

Q. In which, I think, he said the mule and all were put in jail. Do you know of your own knowledge the cause leading up to that arrest?—A. No, sir.

Q. Do you know whether that soldier who went on this mission committed any act violative of the law or the ordinances of the town?—A. No, sir; I do not; but I know the soldier very well.

Q. I am speaking of your own knowledge.—A. Yes, sir.

Q. Do you know any of the circumstances attending his arrest?—A. No, sir; nothing at all about it, except that I knew he was arrested and put in jail.

Q. Is that the only instance you can recall in your three years' stay down there where, in your judgment, a soldier was arrested without any cause?—A. No, sir; there are several other cases; but they are very hard for me to remember them clearly enough to remark on them.

Q. Did you give that special case as an illustration of the prejudices of the people of the town of Brownsville against United States soldiers?—A. I gave that case, sir, to show the overzealousness of the police force in trying to make arrests, to make arrests whenever they could, and, as I understand it, get their fee or their proportion of the costs.

Q. Lieutenant, you stated, as I understand, that you knew nothing about the facts of this arrest?—A. No, sir.

Q. Do not know whether the man was violating any laws or ordinances of the town?—A. No, sir; I do not.

Q. How can you say, then, that this officer was arresting this man to get a fee?—A. The case was tried down there and Mayor Combe was seen, and it was investigated and the man was turned loose, and the policeman was given a severe reprimand for doing it.

Q. Is that the only instance within your knowledge of the overzealous service or overzealous acts on the part of the police of the town in arresting soldiers?—A. Well, of the police itself, I think that is as far as the absolute overzealousness goes; yes, sir; but I can give an illustration where their lack of power in excitement or anything, or understanding or speaking the English language properly, caused one or two soldiers to be improperly imprisoned.

Q. I should judge, then, from what you stated, that this prejudice against the soldiers was confined rather to the police than to the citizens of the town?—A. And the lower class.

Q. The Mexican class or the American class?—A. I think mostly of the Mexican class, sir. As an illustration I can give you, if you do not mind, a case where a Mexican came up to a soldier and asked him if he wanted to fight, and the soldier told him no, and the man picked a fight with the soldier, and this soldier thereupon knocked him down. Then this man claimed to be a policeman, and rather than have any further trouble and have two or three policemen probably get after him the man went to jail.

Q. That is another case instanced by Captain Kilburn?—A. Yes, sir; so I understand.

Q. Well, this prejudice, as I understand, then, was largely confined to the lower class of Mexicans?—A. Yes, sir; I think it was, sir. I think the prejudice got less as you got up among the leading citizens of the town, although I think that the prejudice was still there when you got there, but not in such rowdyish or anywhere near such a violent form.

Senator FOSTER. That is all I want to ask.

By Senator PETTUS:

Q. When you had your command moved out of the barracks, were there any considerable number of hats or uniforms or pieces of uniforms scattered around?—A. I did not see any, sir.

Q. In the discharge of your duties, if there had been any considerable number around the barracks would you not have seen or noticed them?—A. Yes, sir.

Q. You did not see any such thing?—A. No, sir; I did not see any great number of hats or clothing or any truly Government property left lying around loose.

Q. If there had been any considerable number, would you not have seen it?—A. Yes, sir; anything large, like clothing.

Q. Hats or clothing?—A. Yes, sir.

Q. Well, I understand you to mean that there was no considerable number at the time you left the barracks?—A. I did not see any, as I said, sir. I don't remember seeing any clothing.

Q. And you say if there had been any considerable number you would have seen some of them?—A. Almost surely, sir.

By the CHAIRMAN:

Q. You were speaking of the uniforms of the police. I think you said they were formerly uniformed in blue?—A. Yes, sir.

Q. What kind of a hat did they wear with their uniform?—A. They wore with that a hat very much like a campaign hat, only of blue material or black.

Q. With blue clothes they wore a blue hat?—A. Yes, sir.

Q. When they changed to the khaki uniform what kind of hat did they wear then?—A. Very much like our present army campaign hat, only I don't know whether their hats were furnished them or whether they bought them, but I think they were a little broader brim—more like the frontier Stetson hat.

Q. They were not the same hat, then?—A. No; they were not identically the same hat, but they looked very much alike.

Q. You spoke of the prejudice there against the soldiers. Have you ever served with a colored regiment?—A. No, sir; I never served with them.

Q. You spoke of that prejudice as felt for the soldiers that you were in command of, or in partial command of, the whites?—A. It was there to a certain extent against them; yes, sir; among the lower classes.

Q. That is because they were soldiers, regardless of color?—A. It seemed to be so. They seemed to take more pains in keeping peace among the soldiers than they did among men of the town who would be on the street, making the same sort of disturbance.

Q. Was that more or less so at that point than at other points

near posts throughout the United States?—A. I think it was a little more so there, sir, because I think it was due to the Mexican element there that was practically in control of the streets in the evening.

The CHAIRMAN. That is all.

By Senator BULKELEY:

Q. The method of distribution of cartridges at the rifle range that you have described, did that apply to this battalion or regiment?—A. I can only say how it applied to that one company that I was with on the target range at that time.

Q. It need not necessarily apply to the method of distribution in any other regiment?—A. No, sir.

Q. That would be regulated by the officers of the command on the range?—A. Yes, sir.

Q. And not by anything that might have happened under your immediate observation?—A. No, sir.

Senator FORAKER. That is all with this witness.

TESTIMONY OF SERGT. ROWLAND OSBORN—Recalled.

Sergt. ROWLAND OSBORN, U. S. Army, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. You have been sworn and have testified before?—A. Yes, sir.

Q. As I remember, you testified that you were the post quartermaster-sergeant at Fort Brown?—A. Yes, sir.

Q. You were there when the Twenty-sixth Infantry left and when the Twenty-fifth Infantry came?—A. Yes, sir.

Q. And remained there until after the Twenty-fifth Infantry left?—A. Yes, sir.

Q. I want to ask you whether or not you were given any duty to perform by Lieutenant Thompson, of the Twenty-sixth Infantry, who has just testified, and who was left behind in command of a detachment after his battalion went, after it left for San Antonio; whether or not you were given any duty to perform with respect to the policing of the quarters that had been vacated?—A. Not as to the policing of the quarters, but as to the checking of the quartermaster's property remaining in those quarters.

Q. Did you or not have occasion to go into the barracks that the men had occupied?—A. Yes, sir.

Q. State whether or not you did so, and whether or not you had anybody in company with you, and if so, what you found there.—A. Well, sir, I found most of my quartermaster's property there, and saw lots—

Q. I will ask you what had they left behind in the way of property that had to be checked up?—A. Dishes, knives, forks, spoons, bedsteads, mattresses, pillows, chairs, desks, inkstands—

Q. Did all that belong to these respective barracks in the post?—A. Yes, sir.

Q. That is what you were sent in there to check up?—A. Yes, sir.

Q. Any other property that belonged to the post?—A. Yes, sir; there were fire axes, fire buckets, hose—

Q. Did any of those buckets have water in them?—A. No, sir; not at the time I checked them up. They were supposed to have water in them, but they did not. Spittoons was another article; all barrack furniture used by a company while in garrison that is not carried with them when they change stations.

Q. I suppose all these barracks are furnished, so to speak?—A. Well, as an organization comes in the quartermaster's department turns over to them their equipment and takes a memorandum receipt from the commander of the organization, and he will have such articles as are not taken with the command checked up again by the quartermaster's department and taken in.

Q. In what condition were those barracks when you went in—when was it when you went in to do this work?—A. I checked up the barracks on the night before the command left as to the property, and rechecked it on the following morning again—that is, there were dishes and tableware and things of that description locked up in the storerooms, fastened up, and a noncommissioned officer was placed in charge of each set of barracks temporarily, until the whole barracks could be closed up and the detachment go into another building. The quarters were littered with castoff clothing, principally khaki clothing, and shells, ammunition, bandoliers, etc., strewn around.

Q. You found shells and cartridges and bandoliers lying around in these barracks?—A. Yes, sir.

Q. That was the morning after the command left?—A. Yes, sir.

Q. Well, now, tell us about the ammunition first—the ammunition that you found there—and what did you do, if anything, with any of it that you found there?—A. Well, I left it there, with the exception of two packages which I took myself.

Q. How much did you take yourself?—A. I took 40 rounds.

Q. What kind of ammunition was it?—A. Krag-Jørgensen ammunition.

Q. Did you find any Springfield ammunition?—A. I did not examine it, sir.

Q. Where is that ammunition that you found there that morning when you went through checking up?—A. I have it at my quarters at Fort Sam Houston at the present time.

Q. Can you, when you return to Fort Sam Houston, identify that and send it here to this committee, so that we can inspect it?—A. Yes, sir.

Q. And see what kind of ammunition it is?—A. Yes, sir.

Q. Was that the regular army cartridge?—A. Yes, sir.

Q. What kind of gun, if you know, was that command equipped with at that time?—A. They were equipped with the new Springfield rifle, sir.

Q. Where did you find this Krag-Jørgensen ammunition?—A. I found it in the storerooms, sir; in the company storerooms.

Q. What company storerooms?—A. Well, I could not say as to which one I took these from. There was more or less scattered in all of them.

Q. And did you find shells?—A. Yes, sir; there were shells in boxes.

Q. Now, what did you say about bandoliers?—A. Bandoliers were strewn all around the storerooms.

Q. Now, at that time state whether or not the barracks had or had not been locked up.—A. They had not at that time; did not have the time to do it. There was just a noncommissioned officer placed in charge of each set of barracks until we could clean out one set.

Q. What did you do in the way of cleaning up these barracks?—A. I did nothing, sir.

Q. And removing those things?—A. I did nothing whatever.

Q. Did anybody do anything?—A. Well, I had barracks No. 36, which had formerly been occupied by I Company, cleaned out of occupancy by the detachment that I sent. I sent the provost-sergeant there with a detail to do that.

Q. He did that?—A. Yes, sir.

Q. Superintended it?—A. Yes, sir.

Q. Did they at that time you saw those barracks occupy those barracks or not?—A. Yes, sir.

Q. How long was it after the battalion left that this detachment that were left behind in the various company barracks were all consolidated in I Company's barracks?—A. That was probably a week, sir.

Q. During that period what, to your knowledge, was done in the way of sweeping up and gathering up and getting rid of all this stuff?—A. Nothing whatever.

Q. Nothing that you know of?—A. No, sir.

Q. Were you back and forth in these barracks or not during that week?—A. No, sir; not at that time, but when the Twenty-fifth Infantry came in there I was there to turn over that property which I had locked up there, which I had left in the barracks. They were in the same condition then as when I checked them up before.

Q. They were in the same condition?—A. Yes, sir.

Q. Now, I want you to recall carefully that condition, because that has been testified to here in a way that might raise some question about it. That is your recollection?—A. Yes, sir.

Q. And you are positive about that?—A. Yes, sir.

Q. Can not be mistaken about it?—A. No, sir.

Senator FORAKER. Well, I believe that is all. I examined this witness at length before, and I do not care to go over that.

By Senator WARNER:

Q. Sergeant, the Twenty-sixth had been there two or three years, had it not?—A. Yes, sir.

By Senator FORAKER:

Q. There was one question I meant to ask you. Was anybody with you while you were doing this work?—A. Lieutenant Thompson was with me on the evening that I checked up before the Twenty-sixth went out, but he was not with me afterwards.

Q. He was there with you that evening—the evening before they went out?—A. Yes, sir.

Q. But he was not with you again?—A. No, sir.

By Senator WARNER:

Q. Lieutenant Thompson was with you and had the same opportunity of seeing the condition of these barracks that you had?—A. No, sir; I don't think he did, because the troops that were going out were

still occupying the barracks at the time he was there with me, but he was not with me the next day.

Q. Oh, I know, the troops were leaving then?—A. They were getting ready to leave. We check up property before they leave, to ascertain any shortages.

Q. How long before they left?—A. This was the evening before they left, sir.

Q. And then there was clothing and bandoliers and ammunition scattered all around?—A. Well, I did not take notice of those at that time. I took notice of them the next morning after they left. I would notice those things at the time, because I would naturally suppose they would take them with them.

Q. The Twenty-sixth was a pretty good regiment, was it not?—A. Yes, sir.

Q. Well officered?—A. Yes, sir.

Q. Now, how many dozen bandoliers did you find?—A. Well, sir, I did not stop to count them. I suppose there were twelve or fifteen dozen of them altogether.

Q. Bandoliers?—A. Yes, sir.

By Senator OVERMAN:

Q. Ammunition in them?—A. No ammunition in them; no, sir; I don't suppose. They were lying around the place.

By Senator WARNER:

Q. Those were such bandoliers as were used—A. For carrying ammunition.

Q. To carry the ammunition?—A. Yes, sir.

Q. The ammunition comes from the factory in those bandoliers?—A. Yes, sir.

Q. How long have you been in the Army?—A. Twenty-eight years and five months, sir.

Q. Are not those bandoliers to be taken care of by the soldiers at all?—A. I really don't know, sir. They do not belong to my department. They belong to the ordnance.

Q. Had you ever seen them strewn around in other quarters at other places?—A. I don't think they were ever issued before this new Springfield rifle came out, sir.

Q. You never saw them lying around any other place?—A. I don't think they were ever issued before.

Q. How many dozen was it you saw?—A. I suppose twelve or fifteen dozen. They were strewn all over the quarters. I concluded from that that they were thrown away.

Q. And the ammunition that you picked up—A. Was in open boxes lying on the floor in the storeroom.

Q. Ammunition boxes?—A. Yes, sir.

Q. Just lying open?—A. Yes, sir.

Q. What kind of ammunition was that?—A. Krag-Jørgensen, sir.

Q. About how many hundred?—A. I could not say as to that. There was probably four or five hundred around the different quarters.

Q. Distributed around in the storerooms of each of the quarters?—A. Yes, sir.

Q. About how many would you suppose were left there in the storeroom of Company D?—A. I could not tell, sir, as to that. They were just broken boxes. They had used a portion, and I suppose they had shipped the full boxes and left the broken boxes.

Q. I understand, Sergeant; but just approximately?—A. Oh, well, there might have been, I suppose, two or three hundred.

Q. In Company D?—A. Yes, sir.

Q. How many in Company C quarters?—A. Well, there might have been the same.

Q. And in Company B?—A. Probably about the same.

Q. There might have been. Now, Sergeant—A. I could not tell.

Q. I am getting your best judgment.—A. I just looked at those boxes as I went along, without any idea of ever having to think about them. I took them to be abandoned; just simply saw them there; that is all. They did not belong to my department.

Q. I understand, but I am getting at your judgment as to how many cartridges were there—just your estimate.—A. There might have been an average of 200 to each set of barracks, each of the three sets of barracks. I don't remember seeing any in I Company's barracks, 36, or any bandoliers.

Q. That was afterward what we have been calling the vacant barracks?—A. Yes, sir.

Q. Not occupied by the Twenty-fifth?—A. No, sir.

Q. You did not see any at all in them?—A. I don't remember seeing any there. I don't think there was, from the fact that I Company had only been there a short time, and I know, in fact, they did not participate in target practice while they were there.

Q. Would you undertake to say, Sergeant, that there were not some Springfield cartridges mixed up with those Krag-Jørgensen cartridges?—A. No, sir; I would not undertake to say that. I say I did not examine them at all.

Q. But you would think there was an average of about 200 cartridges?—A. I suppose 200 cartridges in each of these three barracks.

Q. And they were there when the Twenty-fifth came, were they?—A. Yes, sir.

Q. In broken boxes? You have been asked if you can be mistaken about something else. You could not be mistaken about that very well, could you?—A. No, sir.

Q. And those bandoliers remained there?—A. Yes, sir.

Q. You did not take any bandoliers?—A. No, sir; I did not.

Q. From your service in the Army you knew that this was Government property, did you not?—A. I did; yes, sir.

Q. And that it should be accounted for?—A. No, sir; I did not know that.

Q. You did not know that ordnance stores should be accounted for?—A. Oh, yes; ordnance stores should be accounted for, and they may have been accounted for for aught I know.

Q. Just wait a minute. You knew they were Government property?—A. Yes, sir.

Q. And as Government property should be accounted for?—A. Yes, sir.

Q. To whom did you report the fact of finding this Government property there?—A. I did not report it to anybody, sir.

Q. Did you report it to Lieutenant Thompson?—A. No, sir; I did not. He had a sergeant to look after that himself.

Q. And you took 40 rounds of Government property?—A. Yes, sir.

Q. Government ammunition?—A. Yes, sir.

Q. Did you report that to anybody?—A. I did not.

Q. That happened to be Krag ammunition?—A. Krag-Jørgensen ammunition; yes, sir.

Q. Now, there was this clothing scattered all around there?—A. Yes, sir.

Q. These barracks are in a pretty filthy, nasty condition?—A. Yes, sir; they were in a very nasty condition.

Q. About how many dozen trousers were there?—A. I suppose there were about ten suits of clothing to each set of barracks.

Q. Just scattered around?—A. Scattered around, discarded.

By Senator OVERMAN:

Q. Was this Krag-Jørgensen ammunition ever delivered in bandoliers?—A. Not that I am aware of, sir.

Q. Those bandoliers you found there must have had Springfield rifle ammunition in them?—A. I presume, according to my understanding, they are only used for the Springfield ammunition.

By Senator WARNER:

Q. How many suits did you find—you said about ten to each set of barracks?—A. About ten to each set of barracks, I should judge.

Q. What kind of uniform was that; was it blue?—A. Principally khaki. There was a little blue there, too. There was some blue there in addition to that—very little.

Q. But about ten suits of that?—A. About ten suits of khaki, I should judge, to each set of barracks.

Q. Upstairs or downstairs?—A. Upstairs principally.

Q. In the quarters which the men occupied?—A. Yes, sir; where the men occupied.

Q. You never saw barracks left in such condition as that before, did you?—A. Yes, sir; I have, many times.

Q. That is customary for troops moving out?—A. Yes, sir. They do not move old clothing that they have no use for and have discarded.

Q. You said you have seen that many a time?—A. Certainly.

Q. Where?—A. Different places.

Q. Where?—A. I have seen it at Fort Clark, at Fort Bliss, I have seen it at Fort McPherson, and I have seen it at St. Francis Barracks.

Q. Now, going back in these places you have mentioned, did you see ammunition scattered around those other places?—A. Yes, sir; I have seen that.

Q. That is customary, too?—A. It is a customary thing.

Q. To find loose ammunition lying around?—A. Loose ammunition. As a rule it is accounted for as expended. When the boxes are broken it is expended.

Q. Just explain how it could be that the soldiers could have such an excess of ammunition.—A. It is very simple.

Q. Just explain it, please.—A. They go to target practice, and each man is issued a certain amount of ammunition to fire, and it frequently occurs that they do not fire them all, and they retain the ammunition. Again, men go on hunting expeditions, and they are given so much for hunting purposes, and they do not use it all, and they retain it.

Q. But could they have any that they did not expend when they were out on the range firing?—A. Well, it is expended when it goes out, so much for target practice. That is the usual practice. The allowance is expended, and what is left over is thrown into the storeroom, providing they get hold of it and the men turn it in.

Q. Provided they get hold of it?—A. Yes, sir.

Q. What do you mean by that? We are not in the Army, and we do not understand.—A. For instance, 65 men are going out to participate in target practice and are issued a certain number of rounds of ammunition. It is turned over to them and expended in target practice. Maybe they are out on target practice for a month, and maybe only half of that is actually used. The rest comes back. It is not thrown away.

Q. So a man could keep it or return it?—A. Could keep it. Maybe he does not want to keep it and turns it in to the storeroom.

Q. If he wants to keep it he can keep it?—A. Yes, sir. Otherwise it is there for hunting purposes.

Q. So that if a man wants to go out on a hunting trip, he can get surplus cartridges without any trouble?—A. Without any difficulty.

Q. These barracks were not locked up, you say?—A. Not entirely; no, sir; only the storerooms where I stored the small property that I did not dare leave without locking up.

Q. Let me see, Sergeant, you had quartermaster's stores?—A. Yes, sir.

Q. In barracks D, B, and C?—A. I had them in all of them.

Q. But the other one you moved into?—A. There was quartermaster's property in them when that battalion left there.

Q. Consisting of knives, forks, chairs, and bedding?—A. Yes, sir.

Q. Fire axes and fire buckets?—A. Yes, sir.

Q. And the general paraphernalia of camp?—A. Yes, sir.

Q. You had that in there, but when the troops moved out, of course the quartermaster was responsible for that?—A. Yes, sir.

Q. Did you take any precaution that parties should not come in to take any of that away?—A. Yes, sir; I took all the small stuff and put it in the storerooms and fastened them up, and put a noncommissioned officer in charge of each set of barracks. Bedsteads and large articles, refrigerators, and chairs, and things of that kind I could not lock up.

Q. But you put an officer in there to see that nothing was disturbed?—A. Because I had to protect that property; yes, sir.

Q. That was the case with each barracks?—A. Yes, sir.

Q. You finally moved it all out of barracks D, B, and C?—A. No, sir; I never did move it out. I turned it over to the incoming command. As soon as I could get to it, I fastened the barracks up and moved all these men into No. 36.

Q. He spoke that right out, did he, so anybody within hearing could have heard it?—A. Yes, sir; he did.

Q. In an ordinary tone of conversation, I mean.—A. Yes, sir.

Q. Did you hear him speak on that subject again; and if so, when, and what did he say?—A. He told me a day or two after that just about the same thing—made the same remark to me again. He said: "I want to kill a couple of those niggers when they come down here."

Q. Well, what did you answer him at that time?—A. I told him again, I said: "I think that you have the wrong idea. I don't think they are going to cause any trouble, and if there is any trouble I think it will be the fault of somebody else here in Brownsville."

Q. What did he say about that?—A. He said: "Well, we are not going to have them here; we are going to run them away from here. We will not have them here."

Q. Did he say in that connection what he would do to run them away?—A. No, sir; nothing furthermore. He expressed himself that he would like to kill a couple of them.

Q. Are those the only conversations you had with him that you now recall?—A. I think I had another conversation with him later on, but I don't remember anything particularly that he said; but he always expressed himself as unfavorable to the colored soldiers coming there.

Q. Now, about this other policeman you mentioned, Genero Padron—they pronounce the "G" as though it was an "H" in Spanish, do they?—A. Yes, sir.

Q. Genero Padron is a policeman, is he?—A. Yes, sir.

Q. And you had a talk with him?—A. Yes, sir; I had, I think, two or three talks with him also.

Q. Well, now, when did you have your first one? And tell us about them in their order, locating each conversation as nearly as you can—the place where it was held and the time.—A. The first talk I remember having with him was on Elizabeth street. It was in front of Mr. Crixell's saloon.

Q. In front of Crixell's saloon, where is that?—A. That is on Elizabeth street, on the opposite side of the street from Weller's saloon.

Q. That would be on the left-hand side as you would go out of the gate and go up Elizabeth street?—A. Yes, sir.

Q. And in what square is that, counting down from the gate?—A. It is in the second square.

Q. Then that would be between Twelfth and Thirteenth streets, would it not, or would it be between Fourteenth and Fifteenth?—A. I think it would be between Twelfth and Thirteenth.

Q. Wherever it is, you met Padron there, did you?—A. Yes, sir.

Q. In front of that saloon?—A. Yes, sir.

Q. What was the conversation between you and him on that subject?—A. He started the conversation by asking me about the colored soldiers coming there.

Q. Was this conversation in English or in Spanish?—A. It was in Spanish.

Q. He does not speak English?—A. He speaks a little bit, but not very much.

Q. It was in Spanish—what was the conversation?—A. He asked me if it was true that the colored soldiers were going to be sent there. I told him it was; that there was an order issued to that effect, and he said that was very bad; that he did not want them to come there; that he was afraid there was going to be trouble if they did, and I asked him why, what he was afraid of, and he said that he had heard the people in Brownsville say that they would not allow the colored soldiers to stay there. He said if they came there was bound to be trouble, and he was in hopes that they could not come; that they would change the order and send them some place else or keep us there. That was the general trend of the conversation. We had two or three conversations in about the same way.

Q. He always talked about to the same effect?—A. Yes, sir; he did.

Q. Did he say anything about getting rid of them or about killing any of them?—A. No, sir; he did not say anything like that.

Q. Did you hear anybody else speak on that subject that you can recall?—A. No, sir; I don't remember the names of any other persons.

Q. But you have already stated that it was general conversation wherever you went?—A. Yes, sir.

Q. During that period?—A. Yes, sir; for several days.

Q. Was the conversation generally one of protest against their coming or not?—A. Yes, sir; it was.

Q. What is the population of Brownsville—how many people live there. I mean?—A. All I know is what I heard while I was there, that they claim a population of about 8,000.

Q. Do you know of what that population consists as to nationality?—A. I would say that the greater part of it was Mexican. I would estimate that something like three-fourths—fully three-fourths—of it is Mexican, and probably more.

Q. Do you mean full-blooded Mexicans or half-breed Mexicans, as they are called?—A. They would be mostly full-blooded Mexicans.

Q. Now, tell us whether or not, while you were there as a member of the Twenty-sixth Infantry, it was a frequent or an infrequent occurrence to hear firearms discharged in the nighttime in Brownsville and around in the vicinity of Fort Brown?—A. It was a pretty frequent occurrence.

Q. About how often, if you can tell, did you hear shooting going on there at night—just your best recollection?—A. I expect that I have heard shooting in the nighttime there two or three dozen times that I remember of.

Q. Well, state whether or not the men of the Twenty-sixth Infantry—those white soldiers—had any trouble, any difficulties, with the police or the citizens of Brownsville while you were stationed there that were out of the ordinary, according to your experience elsewhere?—A. Yes, sir; I believe they did. They did not seem to get along as well there as they did in most places. It seemed like the police were more anxious to arrest them if they were doing anything at all.

Q. What was the customary way, if I may use that expression, if it is not too strong, of making an arrest? Was it accompanied with violence or not on the part of the policemen?—A. It generally was,

Q. He spoke that right out, did he, so anybody within hearing could have heard it?—A. Yes, sir; he did.

Q. In an ordinary tone of conversation, I mean.—A. Yes, sir.

Q. Did you hear him speak on that subject again; and if so, when, and what did he say?—A. He told me a day or two after that just about the same thing—made the same remark to me again. He said: "I want to kill a couple of those niggers when they come down here."

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sir. In several cases that I know of, that happened in my own company, at least three that I recall.

Q. Did you yourself ever have any trouble?—A. No, sir.

Q. You were always treated well enough, were you?—A. Yes, sir; I was.

Q. You have no complaints to make and no grievances that bring you here?—A. No, sir.

Q. Who were these men in your own company who had trouble, to whom you refer?—A. One of them is a man named Cyzyack, Private Cyzyack, now in the Fourth Infantry, I believe. He is not in my company now.

Q. Served out his time of enlistment in your company?—A. Yes, sir. Another was George Schupolsky.

Q. Is he a Mexican?—A. He is Polish, I believe, sir.

Q. Any others besides Cyzyack and Schupolsky?—A. One other that I remember was Lewis A. Parker.

Q. Any other?—A. That is all that I recall, sir.

Q. Do you know about a soldier by the name of Bryan getting into trouble there and getting shot in the hip?—A. Yes, sir. I had forgotten him. He was in my company.

Q. He was in your company also?—A. Yes, sir.

Q. That would make four men in your company who had trouble.—A. Yes, sir.

Q. What kind of soldiers were these?—A. I would say they are about the average soldiers in behavior and conduct.

Q. Were they people who are desirous to make trouble or otherwise?—A. I could not say they were. This man Cyzyack was a man that drank quite a little, and when he got into trouble I think he was drunk.

Q. You think Cyzyack was drunk?—A. I think he was; yes, sir.

Q. Have you personal knowledge of these cases?—A. I have of one of them. I saw a policeman strike this man Parker over the head with a six-shooter.

Q. You saw him strike Parker over the head with a six-shooter. Where did that trouble occur?—A. In Crixell Brothers saloon.

Q. What was the occasion for that?—A. The man Parker said something, without addressing the policeman at all. I don't know what it was he said, and the policeman was pretty well under the influence of liquor. He pulled out his six-shooter and hit the man over the head, without ever saying a word to him.

Q. Did not say a word to him?—A. No, sir.

Q. You saw that, did you?—A. Yes, sir.

Q. What happened? Did he arrest him?—A. Oh, yes, sir; he arrested him, and then released him. I spoke to the policeman about it after he had arrested him and started to jail with him. I told him that I did not think the man had done anything, and that I thought he should be released. He told me if I would take the man to the post that he would release him. He released him and I took the man out to the post myself.

Q. Was the man misbehaving himself in any way?—A. No, sir; he was not.

Q. Was he drunk?—A. He was drinking, but I would not say that he was drunk. He was drinking at the bar with another soldier.

Q. What do you know about Bryan's case?—A. I don't know anything personally. That is, I was there when it occurred, but I did not see it.

Q. What about Schupolsky? Let us find out about him.—A. I don't know anything only what I heard about that case.

Q. What did you hear; that he was beaten up or simply arrested?—A. Well, I heard that he was beaten up and arrested both. In fact, I saw him the next day and saw his head. It was pretty badly cut up.

Q. Badly cut up—that is, he had wounds in the head?—A. Yes, sir.

Q. How had they been administered?—A. He told me that a Texas ranger hit him with a six-shooter from behind.

Q. Hit him from behind with a six-shooter?—A. Yes, sir.

Q. What was he doing when he got hit from behind? A ranger would not hit a man from behind, would he?—A. I could not say from my own knowledge, sir.

Q. Well, that is all you know—what he told you? Was the man arrested, or anything like that?—A. Yes, sir; he spent that night in jail, I believe, and came out to the post the next morning.

Q. Was he dismissed, or what happened to him?—A. I am not positive about that. I don't remember.

Q. Cyzyack was hit over the head with the butt of a revolver, I understand you?—A. I did not see it. That was what he said, and I also saw his head, and he was badly cut up.

Q. He was badly cut up?—A. Yes, sir.

Q. Hit more than once?—A. Several wounds on his head; yes, sir.

Q. And Schupolsky—he told you he was hit with a revolver. Was he hit more than once?—A. I don't remember whether he was or not.

Q. Bryan was shot, was he not, in the hip, or something of that kind?—A. Yes, sir; I believe he was.

Q. He was in hospital for a long time, was he not?—A. Yes, sir.

Q. You saw Parker hit over the head with a revolver. Were there any other troubles of that kind that your men had?—A. That is all I remember, sir.

Q. Now, Sergeant, you say you have been in the Army six years, or something like that?—A. Yes, sir; a little more than six years.

Q. Have you carried a gun all the while you have been in the Army?—A. Most of the time; yes, sir.

Q. What did you carry at other times?—A. I was issued a rifle; had a rifle in my possession.

Q. I mean you have been an enlisted man all the while?—A. Yes, sir.

Q. You have not been an officer?—A. No, sir.

Q. The rank of first sergeant is the highest rank you have held?—A. Yes, sir.

Q. During all the time you have served as an enlisted man you have had a gun in your custody, a gun to take care of and to use?—A. Yes, sir.

Q. What kind of arms did you have in Cuba?—A. We had the Krag-Jørgensen rifle.

Q. What did you have in the Philippines?—A. We had the same kind of a rifle.

Q. What did you have when you first went to Fort Brown?—A. The Krag-Jørgensen rifle.

Q. Did you change that rifle for another one later?—A. Yes, sir; some time last year we changed.

Q. Now state about when that was.—A. I think it was either in April or May.

Q. What rifle did you get in lieu of the Krag-Jørgensen?—A. We got the new pattern of the Winchester rifle.

Q. You do not mean Winchester?—A. No, sir; the Springfield, the new model Springfield.

Q. Right behind you in that gun rack is a gun. Look at that and see if that is the kind of gun that you were supplied with. You can take the gun out of the rack. I wish you would do so; I want to ask you some questions about it.

(The witness unlocked the rack and took the rifle out.)

By Senator FORAKER:

Q. Did you have that kind of gun when you were at Fort Brown?—A. Yes, sir; that is the kind of gun we have now.

Q. That is the kind you had then; you had the Springfield?—A. No, sir.

Q. You had a different kind then; you had the Krag-Jørgensen?—A. We did not have any at all at that time in my company.

Q. How did you keep your Krag-Jørgensen rifles when you were not on duty, when you were not using them; did you just set them up in the quarters or put them under lock and key?—A. In my company at that time there was no way to place them under lock and key for quite a while shortly after I came to Brownsville, as there were no gun racks issued to my company. My captain ordered, I believe—I know it was an order in the company—that each evening after retreat, which would be about 6 o'clock, all the rifles should be turned in to the company storeroom and locked up and kept there overnight, as there were no arm racks to keep them in.

Q. The company storeroom was under whose control?—A. Under the captain's control; but he generally left that to the quartermaster or first sergeant to carry one set of keys.

Q. Who carried the key? That is what I wanted to know.—A. Generally the quartermaster-sergeant.

Q. Who was your captain?—A. Captain Roche.

Q. What is his first name?—A. Capt. Edward A. Roche.

Q. That is the way you did until the Springfield rifle was issued; then you got gun racks, the same kind of gun rack as that?—A. I believe we got the new gun racks before we got the new rifles; I am not positive.

Q. Could you put a Krag-Jørgensen rifle in that rack? Was not the Krag-Jørgensen a longer gun than this?—A. Yes, sir; it was. I believe, now, that we got this gun rack before we exchanged guns, and the racks could not be used until we got this rifle; that is my recollection now.

Q. At any rate, you did get a gun rack like that?—A. Yes, sir.

Q. As nearly as you can say it was like that?—A. It seems to me exactly like it, sir.

Q. And then in due time, along in April, I think, or not later than the 1st of May, I think you said, you got the Springfield rifle?—A. Yes, sir.

Q. Now, can you tell us how you clean these guns? Take the Krag-Jørgensen first. What is necessary in the cleaning of one of these guns; I mean what parts do you have to give attention to after they have been fired; I mean to clean them so they will be clean enough to pass a rigid inspection?—A. The principal parts, the parts that require the most cleaning, are the bore, as we call it, the inside of the barrel, and the chamber, down in through here [throwing back breech bolt], these small parts, and this bolt; sometimes it is necessary to dismount and take the bolt apart.

Q. Now, we will assume that we are not going to dismount the bolt and take it apart; but to clean the bore and to clean the chamber, and all that sort of thing. Is it necessary to take out the floor of the chamber also to get it thoroughly clean? What do you call the floor of the chamber; that is the piece, as I understand it, right under the chamber?—A. The piece right here, I believe, sir [indicating].

Q. Now, turn the gun around, clear around so that I can see. You mean that [indicating]?—A. Yes, sir.

Q. That is what I mean. What do you call that?—A. I am not sure of the name of this. There are over 200 pieces in this gun. I am not sure of the name. In most cases it is not necessary to take out this [indicating].

Q. You had experience in cleaning the Krag-Jørgensen and also in cleaning this gun when you got it?—A. Yes, sir.

Q. I will pass from the Krag-Jørgensen for the present, and confine my questions to this gun. Assuming that that gun has been fired a half a dozen times, or two or three times, with smokeless powder, that is with regulation .30 caliber cartridges, how long would it take to clean that gun so that it would pass inspection, and how would you go about cleaning it?—A. I would say to clean the gun thoroughly so that it would stay clean and pass inspection something about half an hour would be the average time to clean it.

Q. Some men would clean it more quickly than others?—A. Yes, sir.

Q. Tell us whether or not you have to have certain facilities in order to clean that gun.—A. To clean it in that time?

Q. I mean would you have to have a cleaning rod?—A. You would have to have that or some kind of a rod to take the place of it; yes, sir.

Q. You have what is called the thong brush, do you not?—A. Yes, sir; that should be right in here, in the butt plate.

Q. Could you clean that gun with the thong brush so that it would pass inspection?—A. No, sir.

Q. That is according to your experience, is it?—A. Yes, sir.

Q. What is the effect of passing the thong brush back and forth through the bore of that gun?—A. That will loosen any dry or hard substance, dried powder—become dried—that has not been cleaned for a half an hour or an hour or so. It will loosen that to a certain extent so that it can be wiped out with rags later on.

Q. But you must use rags—Rags or something of that kind?

Q. State whether or not the preparation, such as sal soda, is effective.—A. They should be. We use various kinds of clean polish, if the gun is pretty dirty.

Q. How often have you got that gun in order to clean it?—A. I could not begin to say, sir, but we can pass a rag through the barrel and it looks tolerably clean aside for half an hour and then it is ready.

Q. If it looks that way it is not thoroughly cleaned; is it?

Q. Is that the effect of the powder?—A. No.

Q. You only know the experience?

Q. You not only have to sweep it out?—A. It must be dry; it will not stay clean.

Q. When you are through with the chamber and the same time. That part of it of the chamber, always accumulates; it is very difficult to clean those corners.

Q. How do you get to them?—A. With a nail, and others a plain stick, and push them down in the corners there [indicating].

Q. Is that or not a tedious process?

Q. Tell us whether or not you think it would pass an inspection always, I mean, after it has been cleaned?—A. I think it would be impossible for me to say, sir, that I don't believe it would be dark. He couldn't see it and I couldn't see it.

Q. Did you ever see any other guns?—A. I never remember.

Q. You have seen the men?

Q. How often do you have them?—A. Every Saturday morning.

Q. Except when you are doing inspections during the firing?

Q. But when you do not have an inspection, and you are talking about the firing?—A. Yes, sir.

Q. Now, tell me about what you saw when the Twenty-sixth Infantry were fired?—A. Yes, sir.

Q. When you come to the cartridges, how were the men?—A. They were all right, and to what extent were they supplied with cartridges for each man?

Q. To consume that ammunition?—A. Yes, sir.

Q. And there is a record in your company records, made by some official whose duty it is to keep the record of each man, of each individual, of the actual performance at the range on the tour of duty?—A. It is kept in several places; at our company office and several other places. We have to make a report of that—of the record that a man makes. There are different grades of marksmanship.

Q. Suppose you issue him 10 rounds of cartridges to fire at some specific distance, say 600 yards, or whatever it may be, and he comes back and his gun, perhaps, has missed fire, or something, and he has only fired 8; is he sent back to complete that?—A. Yes, sir; he must complete that.

By Senator FORAKER:

Q. I want to ask you one question that I forgot in the first place. Have you any particular record as a marksman, or in handling a rifle?—A. Yes, sir; I qualified as a sharpshooter.

Q. You are a qualified sharpshooter. What does that signify?—A. Well, it is to make a certain number of points out of the possible at all ranges. It would take quite a while to explain it thoroughly.

Q. At target practice?—A. At target practice.

Q. That is all that I wanted. Does it indicate excellence in target firing?—A. Yes, sir.

By the CHAIRMAN:

Q. It entitles you to extra pay, does it not?—A. Yes, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. As to target practice, the same rule prevailed when you had the Krag rifle as when you had the Springfield, with reference to cartridges?—A. With reference to the use of cartridges?

Q. Yes.—A. Yes, sir; I think so.

Q. Do you not know it is so?—A. That is, you mean—

Q. About firing the cartridges, and the men firing the required number, and so forth?—A. Yes, sir; that is the same.

Senator FORAKER. I forgot one very important subject, and I will pick it up now, if you want me to. I am sure you will want to cross-examine on it.

Senator WARNER. Please let me finish this now.

Senator FORAKER. Very well.

By Senator WARNER:

Q. You had had the Krag rifle some years?—A. Yes, sir.

Q. And the Springfield only some months?—A. Since last April May; I believe about that time.

Q. April or May, 1906?—A. Yes, sir.

I meant to say it was before leaving Brownsville; that is the intended to put it—A. Yes, sir.

Q. When had extra cartridges, did they not, at certain times?—A. Yes, sir. They were issued a certain number of cartridges for guard duty.

I understood they had extra cartridges at times?—A. Yes, sir. They were issued above what was required.

Q. You went away with your company?—A. Yes, sir.

Q. And since then you have been at Fort Sam Houston?—A. A greater part of the time. We went from there to Fort Sam Houston. We only stayed there a short time, and then went to Austin, Tex., for maneuvers.

Q. Oh, yes. You were at Camp Mabry?—A. Yes, sir.

Q. Have you ever been connected in any way with the Twenty-fifth Infantry?—A. No, sir; I have never been located near them.

Q. Have you any interest in them that would lead you to come here and testify about them in the way you have?—A. No, sir.

Q. Are you acquainted with them—the men of that battalion? Have you any acquaintance with them at all?—A. No, sir; I can not say I am acquainted with them, only I have just seen a few of them since they came to Brownsville. Some of them were sent to Fort Sam Houston and placed in confinement there.

Q. You saw some of those men?—A. Yes, sir.

Q. There were 12 of them, I believe?—A. I believe there were.

Q. You were at Fort Sam Houston when they were brought there?—A. No, sir; they were brought there while we were at Camp Mabry, and they were there in the guardhouse when we returned to Fort Sam Houston.

Q. Did you scrape up any acquaintance with them or did you simply know they were there?—A. I can not say that I had any acquaintance with them. I was on guard shortly after I came back two or three different times, and some of them would ask me to mail a letter for them; that is about all the talk I had with them.

Q. You have no interest in this controversy whatever?—A. No, sir.

Senator FORAKER. That is all that I think of now. I may have something else to ask him later on.

By Senator BULKELEY:

Q. Is the record of these men on the target range kept, the record of each individual?—A. Yes, sir.

Q. So that if a man only fires six shots, that record is a matter of record, is it?—A. Yes, sir; that is a matter of record.

Q. Suppose a man is required to fire ten shots and he only fires six, that is made a record? What I want to get at is that what the man does on the target range is a matter of record in your company?—A. Yes, sir; it is.

Q. By some official who has charge of that?—A. We keep a complete record of the target practice in the office.

Q. So that if a man only fires six rounds, you have a record, if it was his duty to fire ten and he only fired six? You have the record that he only fired six, have you?—A. Yes, sir; but in a case of that kind, if he only fired six and had to stop, he would have to commence over again and fire those ten rounds.

Q. He would have to fire the ten anyway?—A. Yes, sir.

Q. How long, when your company is on target practice, are they on the range?—A. There is no fixed time, sir.

Q. I know, but about how long does it take for that tour of duty?—A. It takes a company now something like three weeks, on the average, to complete the target practice each year.

Q. To fire that 400 rounds that they are supposed to fire on the range?—A. Yes, sir.

Q. To consume that ammunition?—A. Yes, sir.

Q. And there is a record in your company records, made by some official whose duty it is to keep the record of each man, of each individual, of the actual performance at the range on the tour of duty?—A. It is kept in several places; at our company office and several other places. We have to make a report of that—of the record that a man makes. There are different grades of marksmanship.

Q. Suppose you issue him 10 rounds of cartridges to fire at some specific distance, say 600 yards, or whatever it may be, and he comes back and his gun, perhaps, has missed fire, or something, and he has only fired 8; is he sent back to complete that?—A. Yes, sir; he must complete that.

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Senator FORAKER. That is all.

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Q. Yes.—A. Yes, sir; I think so.

Q. Do you not know it is so?—A. That is, you mean—

Q. About firing the cartridges, and the men firing the required number, and so forth?—A. Yes, sir; that is the same.

Senator FORAKER. I forgot one very important subject, and I will take it up now, if you want me to. I am sure you will want to cross-examine on it.

Senator WARNER. Please let me finish this now.

Senator FORAKER. Very well.

By Senator WARNER:

Q. You had had the Krag rifle some years?—A. Yes, sir.

Q. And the Springfield only some months?—A. Since last April or May; I believe about that time.

Q. April or May, 1906?—A. Yes, sir.

Q. I meant to say it was before leaving Brownsville; that is the way I intended to put it.—A. Yes, sir.

Q. Men had extra cartridges, did they not, at certain times?—A. As a rule they were issued a certain number of cartridges for guard duty.

Q. Yes; I understand. They had extra cartridges at times?—A. Do you mean above what they were issued?

Q. No; but that were not used. It was not an infrequent occasion, was it, to see men have extra cartridges?—A. I think it was; yes, sir. A man was issued a certain number of cartridges for garrison duty and guard duty, and so forth, and he was supposed to have that number and no more; and if he lost any they were supposed to be replaced.

Q. Four hundred cartridges were issued to the man for the target firing?—A. Yes, sir.

Q. And some would not fire all of those 400, would they?—A. No, sir; some would not.

Q. You being out on the range, you being a sharpshooter, you would not use all of your 400 cartridges?—A. I would use more than a man who was a poor marksman.

Q. You would use more?—A. Yes, sir; because he would not complete the whole course.

Q. In what cases would he not use the 400?—A. A man first is required to qualify as a marksman and he is entitled to have additional pay. If he does not qualify as a marksman he can not take the sharpshooters' course. If he qualifies as a marksman, then he has an opportunity to take another course, back as far as 1,000 yards, for the sharpshooters' course; but when he does not qualify as a marksman he does not have that opportunity and does not use as many cartridges as a man who tries for a sharpshooter.

Q. What company was yours?—A. M Company.

Q. What barracks did you occupy at Brownsville?—A. We occupied the set of barracks next to the gate going in, the second from the river bank.

Q. Look at that map. You will see one set of barracks marked "D" and one marked "B."

Senator OVERMAN. There is D and there is B and there is C, or perhaps you will understand it better by the numbers. They are numbered 33, 34, 35, and 36 [indicating on map].

The WITNESS. Yes. This is the set of barracks we occupied [indicating].

By Senator WARNER:

Q. That is the barracks marked "B?"—A. Yes, sir.

Q. You had inspection in your regiment; the quarters were inspected how often?—A. They were inspected at least once a week, and sometimes oftener.

Q. But every Saturday was inspection day?—A. That was regular weekly inspection day.

Q. They were inspected by a commissioned officer?—A. Yes, sir.

Q. What was the purpose of that inspection?—A. The main purpose is to see that the men have their arms and equipments and clothing in good order, neat and clean, and also that the quarters, the sleeping rooms, and other parts of the quarters, the storerooms, rooms containing company property, are in good condition and that everything is there supposed to be there.

Q. And free from dirt or filth of any kind?—A. Yes, sir.

Q. That is required; that is what was required in your regiment?—A. Yes, sir.

Q. What day of the week was it that you left Brownsville—the 5th of July, do you remember?—A. No, sir; I do not.

Q. Do you remember the condition of the quarters when you left there?—A. Yes, sir; I remember the condition of my quarters.

Q. Yes; the quarters which we have now designated as the barracks B?—A. Yes, sir.

Q. That was properly policed, was it?—A. It was tolerably well cleaned up, yes, sir, at that time. I could not say it was thoroughly policed at the time when we left, because we left very soon after daylight—about half an hour afterwards.

Q. But you left a detachment behind, of your company, did you?—A. Yes, sir.

Q. How many men?—A. I think it was ten out of each company—something near that.

Q. Then it would be their duty to see to the policing afterwards, the same way?—A. That was the order they had—to clean up as soon as we got out of there that morning; to clean the quarters up thoroughly.

Q. You know those orders so far as your quarters were concerned because you heard them given, did you? You were first sergeant?—

A. I was not first sergeant at that time. I was sergeant, but not first sergeant.

Q. You were a sergeant? What sergeant?—A. I can't say. It does not make any difference. All the rest of them ranked the same—first, second, third, etc., duty sergeant; but the rank is the same.

Q. Yes; but this fact you know of. Now, did you see any old clothing scattered around there on the floors?—A. It appears to me that there was when we were leaving; that there was some clothing that seemed to be useless or almost useless, that the men did not carry with them, that was left behind.

Q. Where was that left?—A. Some of it—what I noticed—was left on the porches downstairs.

Q. Did you see it anywhere else?—A. I do not remember seeing it.

Q. Did you see any cartridges scattered around the floor?—A. No, sir; I don't remember seeing any cartridges at all.

Q. Were there any loose cartridges left back there?—A. I couldn't say, but if there had been I think it very likely that I would have seen them. I did not see any at all. If there had been any left there, in fact, they should have been gathered up by anyone, any noncommissioned officer in the company, if anyone had seen them lying around, because they would have been of some value and would give the men extra practice that wanted to use them on the target range, if nothing else; and it seems to me that anyone who noticed them lying around would have spoken about it to the sergeant, so that he would have taken care of them.

Q. It was not any infrequent thing to see a soldier have extra cartridges, was it?—A. Yes, sir; it was.

Q. How infrequent?—A. I can't say that I remember but very few cases of ever seeing a soldier have more cartridges than were issued to him for the regular garrison duty.

Q. What were those few cases?—A. One of them, I remember, was two or three years ago when some men had some cartridges issued to them to go out deer hunting, and they did not use all they had for that purpose—for hunting—and they had some of them, and then they went out again to shoot some jack rabbits.

Q. Those cartridges would be counted in the 400?—A. No, sir; they are separate.

Q. How would they get cartridges for going deer hunting?—A. That is provided for in general orders from the War Department.

Q. They got cartridges in that way?—A. Yes, sir.

Q. Men give cartridges away sometimes to people?—A. I think that is a very rare case, sir.

Q. I ask you if they do?—A. I never remember of my own knowledge seeing anyone do it. I never did it myself.

Q. Neither on the march nor in camp?—A. No, sir.

Q. Nothing of that kind, to your knowledge?—A. No, sir.

By Senator OVERMAN:

Q. Was there anything to prevent a man taking a few of these cartridges if he wanted them; if he had them going out hunting, could he not save a few and put them in his pocket?—A. Those hunting parties here lately, the last year or two, have been almost entirely done away with.

Q. I did not ask you that. I say when a man did go hunting?—A. Yes, sir.

Q. Then he had an opportunity of not firing all his cartridges and having surplus cartridges?—A. Yes; and bringing a few back.

Senator OVERMAN. Go ahead; I did not want to interrupt.

By Senator WARNER:

Q. In cleaning the gun, with the kind of powder you had after you began using this new Springfield rifle in April or May, 1906, does it make any difference what amount of time you let the gun remain after the shooting before cleaning it?—A. Yes, sir; it makes a great difference.

Q. For instance, a gun that is cleaned within two or three or four hours after the shooting is much more easily cleaned than one that has remained over several hours, twenty or thirty hours, is it not?—A. Yes, sir; it is.

Q. That is especially the case with this smokeless powder, is it not?—A. I couldn't say that it was, to notice the difference in that respect between the smokeless and the old black powder. With either one it makes quite a difference whether the gun is cleaned right after being fired or remains several hours or a day or two.

Q. I take it you do not want it to be understood that it would take thirty minutes to clean a gun if it had been fired three or four times and then was immediately cleaned?—A. To be cleaned thoroughly to stand a rigid inspection.

Q. Yes; I know; but two or three hours afterwards, that it would be necessary to clean the screws of the gun, the screw heads, and the outside, the stock, and all, to determine whether or not it had been fired; that would not be necessary, would it?—A. No, sir; it would not.

Q. But that is what you call cleaning a gun for a rigid inspection; the screw heads and all that has to be cleaned?—A. Yes, sir; if they are dirty, they must be cleaned.

Q. Or else they do not pass muster?—A. Yes, sir.

Q. But for inspection, so as to remove the evidences of the fact that the gun had been shot, how many minutes would you say it would take just for that purpose alone?—A. Ordinarily, if a rifle

had been fired a few times, I would say a half an hour would be something like the usual time to clean the bore and the chamber.

Q. Then if you passed to cleaning the screws and all that part of it, how long would it take you?—A. That would vary greatly in different circumstances, according to their condition—how dirty they were.

Q. It would take you much longer, then?—A. Yes, sir; it would.

Q. But thirty minutes you gave as your opinion of the time it would take to clean a gun so as to remove the powder stains, or evidences of powder, when it has been discharged five or six times?—A. Yes, sir.

Q. It is necessary to use the rod, you say?—A. Yes, sir.

Q. How many rods are furnished each company?—A. I am not positive about that; something like half a dozen.

Q. Then they make rods, do they not?—A. Yes, sir.

Q. Out of wire?—A. Yes, sir; they do that also.

Q. So that they have quite a number of rods in a company?—A. In my company it is customary to have something like six or eight rods. Some of the rods that are issued sometimes become broken, and as they are to be turned in only twice a year, every six months, if they are short of rods they can make them—the artificer can make some out of wire, or something like that, that will answer the purpose.

Q. That will do just as well as the other?—A. Yes, sir.

Q. Substantially the same?—A. Yes, sir.

Q. But the floor of the chamber it would not be necessary, as you say, to remove in order to simply determine the question whether the gun had been fired?—A. No, sir; I do not think it would.

Q. Now, you heard these conversations there. Have you been at any other post where colored troops have relieved white troops?—A. Yes, sir.

Q. What place?—A. Fort Ringgold, Tex., for one. I believe that is the only one that I remember of at the present.

Q. You had been stationed there, had you?—A. Yes, sir; I was stationed there between three and four years ago, immediately on coming back from the Philippine Islands.

Q. For how long, Sergeant?—A. I was there from the latter part of August, 1903, until January, 1904.

Q. Say substantially six months—five or six months?—A. Yes, sir.

Q. You got pretty well acquainted there?—A. Yes, sir; pretty well acquainted; it is a small place.

Q. Were those people satisfied with the colored troops coming there?—A. It had been at that time quite a while since colored troops had been there. They had relieved the white troops once before, and had gone.

Q. I know, but the colored troops relieved you there?—A. No, sir; they did not.

Q. That is what I intended to ask.—A. I misunderstood your question. No, sir; they did not.

Q. Now, you have given the names of four parties that you heard speak with reference to these colored troops, have you not?—A. About five, I believe, sir; three policemen, Mr. Weller, and Mr. McDonald.

Q. Five, then?—A. Yes, sir.

Q. And you were stationed at Brownsville how many years?—A. It amounted to about nineteen months; from the 26th day of December, 1904, to the 5th day of July, 1906.

Q. And this order stating that the Twenty-fifth was to relieve the Twenty-sixth had been promulgated how many weeks before the 5th of July, when you actually left there?—A. I do not remember, sir.

Q. Some weeks, was it? I suppose the record will show that.—A. Yes, sir; probably three weeks, or something like that.

Q. These conversations you heard were either in the saloons or the doors of saloons, most of them?—A. Not all of them; no, sir.

Q. Which of them was not in a saloon or in the door of a saloon?—A. The one I had with Policeman Dorrity, and also with Policeman Padron.

Q. But the other three were?—A. I believe the other three all were—with Fernandez and Mr. Weller.

Q. Now, Dorrity was a policeman?—A. Yes, sir.

Q. Not an officer of the police?—A. No, sir.

Q. How did that conversation come up, Sergeant?—A. As well as I can remember, he spoke to me first. He asked me something about the truth of the colored soldiers coming to relieve us.

Q. Yes.—A. As near as I can remember that is the way the conversation started.

Q. Then what was said?—A. I told him that it was true; I supposed that they were coming; there was an order to that effect.

Q. Yes. Did he express himself as dissatisfied? What did he say?—A. He said that he was afraid there was going to be trouble if they came; that people there did not want them there, and he was afraid it would cause trouble if they came. That was about the substance of it.

Q. Anything further?—A. That was the most, I believe. That was about the substance of the talk. We talked quite a good deal.

Q. His regret, then, was that it might cause trouble, because the people did not want the colored troops there?—A. Yes, sir.

Q. And also, in that connection, he expressed regret that the Twenty-sixth was going to leave, did he not?—A. I think he did, sir; I am not positive about that. I think he did.

Q. Yes. And I suppose you, by way of compliment, expressed regret that you were going to leave?—A. I do not think I did. I think I told him that I was glad to get away from there.

Q. That you were glad to get away from there?—A. Yes, sir.

Q. You expressed a feeling of joy rather than of sorrow that you were going to leave there?—A. Yes, sir.

Q. That was to Dorrity?—A. Yes, sir.

Q. And then you had a talk with Weller?—A. Yes, sir.

Q. What did Weller say?—A. He told me that he was very sorry that they were coming there, and that he did not think they would be there very long, because the people would get rid of them some way; that they wouldn't allow them to remain there very long.

Q. Did he say anything more?—A. Nothing particular, more than that.

Q. That was all he said?—A. Yes, sir; that was about all. I talked quite a while with him, but that was the most of his remarks, that they wouldn't remain there very long, because the people wouldn't have them there; something like that—didn't like them.

Q. Fernandez, I believe, was the policeman you had a talk with?—A. Yes, sir.

Q. He spoke English, you say, very well?—A. Yes, sir; he spoke tolerably good English.

Q. Where was that conversation?—A. The first conversation I had with him was in Mr. Weller's saloon, I believe; the first one I remember of.

Q. Were you taking a drink there?—A. No, sir; I was not taking a drink at the time.

Q. What was your business in there?—A. Nothing particular; I just walked in. There was quite a number of soldiers in there, the way I remember it. I might have been looking for some one; I don't remember now.

Q. I do not care about that. Now, as to Fernandez, what was his language?—A. He asked me about the colored soldiers coming down there, and I told him that I understood they were coming, and he says: "We don't want them down here;" he says, "We ain't going to have them down here;" and he tapped his gun with his hand, and he says, "I want to kill a couple of them as soon as they get here."

Q. He limited the number to two?—A. Yes, sir.

Q. That was there publicly?—A. Yes, sir; it was tolerably publicly.

Q. Was Fernandez a man that talked a great deal?—A. I can't say that he was a very great talker; no, sir.

Q. Did you report that talk to anyone?—A. No, sir.

Q. Have you ever told it to anyone at all?—A. I talked it over with some soldiers in Camp Mabry, after this trouble occurred down there.

Q. Anyone else?—A. Yes, sir; I have talked it over since then, I believe.

Q. You came here from what place?—A. From Fort Sam Houston, Tex.

Q. That is where you are stationed now?—A. Yes, sir; that is my proper station.

Q. Did you pay much attention to the remark of Fernandez?—A. Not at the time; no, sir; I did not pay much attention to it.

Q. Why did you not?—A. I thought it was more of a brag at the time.

Q. That is what I assumed—that you regarded it more as idle talk—brag.—A. That was my idea at the time.

Q. It would naturally occur to you that if a man was going to kill two men he wouldn't go around boasting of it?—A. No, sir.

By Senator OVERMAN:

Q. In these conversations, did any of them tell you that they were going to appeal to their Congressmen and to Senators Bailey and Culberson to get those troops away from there?—A. I heard Weller say something about that—the citizens were going to get up an appeal that they be not sent there.

By Senator WARNER:

Q. I was coming to that. Was not that given, in connection with the other statement, as a reason why they would not stay there long, because they would get their Senators and Congressmen to have them

removed to some other post? Is not that the fact, Sergeant?—A. No, sir; it was not spoken in that way. It was not given in connection with that.

Q. What was it given in connection with?—A. I can not remember that at present. I remember hearing him make that remark.

Q. Who?—A. Mr. Weller, the saloon keeper.

Q. In what connection did he make that remark?—A. I can not say, sir. I don't remember.

Q. Was it in one of these conversations you have spoken of with Mr. Weller?—A. No, sir; I wasn't talking with him myself. He was talking to some one else when I heard him make this remark.

Q. What remark?—A. That the people of Brownsville were thinking about petitioning, or something to that effect, that the colored troops be not sent there. I heard him tell this to some one else; he didn't tell it to me.

Q. So as to get right on that, was that on the same day that you had the talk with him in his saloon?—A. No, sir; it was a different time. It was about the same time, but it was not the same occasion. I do not think it was the same day. I will not be positive about it not being the same day.

Q. Were you frequently in that saloon?—A. Tolerably frequently.

Q. Every day?—A. No, sir; not every day.

Q. Now, McDonald you had a talk with?—A. Yes, sir.

Q. And where was that talk? That was in a saloon, was it?—A. Once in a saloon and once. I remember, on the street—on Elizabeth street.

Q. In what saloon was this?—A. That was in Weller's saloon also.

Q. And he expressed regret also that the Twenty-sixth were going?—A. Yes, sir; he did.

Q. And now, what was it he said?—A. As near as I can remember, he says "We will run those damned niggers away from here; we won't have them here." He says "They won't be here long; we will run them away."

Q. To whom was that said?—A. That was said to me, directly.

Q. What brought out that remark?—A. It came from the talk of them coming there.

Q. Several soldiers were around there at that time?—A. No; there was no one but him and I talking at that time.

By Senator OVERMAN:

Q. Was he an associate of yours?—A. I can't say he was. I spoke to him.

By Senator WARNER:

Q. You were quite intimate with him?—A. No, sir; I can't say I was.

Q. You were in his saloon often?—A. He didn't have any saloon. This was McDonald.

Q. Oh, this was McDonald. But it was in Weller's saloon?—A. This occasion, I think, was on the street. I talked with him two or three times, and the time he told me this I think it was on the street and not far from Weller's saloon—on the same street. I talked with him once, I remember, in a saloon and once on the outside—probably more than once on the outside.

Q. Did you go on in the saloon after the talk?—A. No, sir; I did not.

Q. That talk, I assume, you regarded as you did the other?—A. I didn't pay any particular attention to it at the time, only it impressed it on my mind that he was pretty hostile to negro soldiers, and didn't want them there.

Q. You know the mayor of Brownsville?—A. Yes, sir.

Q. He was very rigid there, was he not, in the enforcement of the laws?—A. I can't say about that, sir. I don't think I am competent to judge.

Q. Why? You were living there.—A. Yes, sir; it didn't appear to me, sir, that he was very rigid in enforcing the laws when Mexicans were concerned, not as much as when soldiers were concerned. That appeared to me several times.

Q. He appeared to favor the Mexicans as against the soldiers?—A. It appeared that way to me; yes, sir.

Q. That was Mayor Combe?—A. Yes, sir.

Q. Mayor Combe had been a soldier himself, had he not?—A. I understand he was; yes, sir.

Q. Then Mayor Combe, in your judgment, was not friendly to the soldiers?—A. I can't say that he was unfriendly to the soldiers.

Q. Well, he treated the soldiers worse than he treated the Mexicans?—A. That was my impression and my belief, sir.

Q. You knew of the cases that you have mentioned in all that time you were at Brownsville, where soldiers had been arrested?—A. How is that, sir?

Q. You have given all the instances you can remember in the years you were at Brownsville of where soldiers were arrested?—A. No, sir; I have not.

Q. Well, now, proceed. What other instances do you remember?—A. A man named Rappe, in my company, was arrested.

Q. When was that?—A. I can't say. I think it was some time in the year 1905.

Q. Was Mayor Combe mayor then?—A. I am not positive whether he was or not. I can not say that, either.

Q. What was this man arrested for?—A. I think he was charged with disorderly conduct; I am not positive; that is what I heard.

Q. That is, he was charged with being drunk and disorderly?—A. I couldn't say the exact charge. I heard that he was charged with something like being disorderly downtown.

Q. And he was arrested. Do you think a Mexican would not have been arrested under the same circumstances he was arrested under?—A. I don't know what the circumstances of his arrest were; I could not judge.

Q. You don't know. Well, what was the next case of arrest other than the few you have given me heretofore?—A. I am trying to think of the name of one man. I have forgotten his name. He was a man out of L Company. He is discharged now.

Q. Without giving the name, when was that arrest?—A. It appears to me like that was the latter part of 1905.

Q. What was he arrested for?—A. I could not say, sir. I heard that he was arrested and spent a day or two in jail. I never remember of hearing what for. I might have heard.

Q. Any other now?—A. Yes, sir; a soldier of my company named Eplen—Jesse Eplen.

Q. What was he arrested for?—A. He told me he was arrested—that is all I know—because he was with another soldier—this man Shupolsky—when he was arrested.

Q. Any other? I want all of them, Sergeant.—A. I believe that is all that I can remember, sir, at present. It appears to me there were a number more.

Q. How many years were you at Brownsville? You have already stated that.—A. About eighteen or nineteen months.

Q. And these are all the instances that you can give?—A. That is all that I can remember at the present time.

Q. It is a fact, is it not, that about pay day soldiers visit the saloons, quite a number of them?—A. Yes, sir; it is.

Q. And it is, unfortunately, a fact that some of them drink too much?—A. Yes, sir; in some cases.

Q. And, like other people, when they are drunk they are apt to be disorderly?—A. Yes, sir.

Q. That is your observation, is it not?—A. In some cases; yes, sir.

Q. And during that same time, now, how many soldiers of your company did you arrest; how many were arrested and placed in the guardhouse in the camp for being drunk and disorderly, would you say?—A. I don't remember of but one case, sir; that is all I can remember.

Q. Would you arrest them if they were drunk?—A. If they were disorderly, drunk and disorderly around the quarters in the post, around my quarters, it would be my duty to arrest them and place them in the guardhouse; yes, sir.

Q. Suppose they would come in drunk?—A. It would depend on how drunk, or what a man's conduct was. If he was disorderly, it was the rule to place him in the guardhouse. If a man is under the influence of liquor and is not loud or disorderly, but is willing to go and lie down and go to sleep, he is not arrested, as a rule.

Q. So that if he comes into camp drunk, and does not make any disturbance, he is not arrested?—A. That is the rule; he is not; yes, sir.

Q. But if he is drunk, staggering along the streets of a town—have you been in any place where they did not arrest parties found in that condition on the street?—A. Yes, sir.

Q. Where?—A. I noticed that in Brownsville they paid but very little attention to Mexicans in that condition. That was my observation.

Q. Mexicans were allowed to reel around on the streets at will?—A. Yes, sir; I have seen them drunk and very disorderly—

Q. What year was that?

Senator FORAKER. Let him finish his answer.

Senator WARNER. That was all. I think he finished his answer.

By Senator WARNER:

Q. Did you not finish? Were you about to say anything else?—A. Yes, sir; I was going to recall one case that happened last year, 1906—it appears to me like it was in June—where a man was very drunk and disorderly, and a Mexican policeman called a hack and took him home. He said that he was going to take him to jail. There

were several soldiers standing around—I was there myself—and this Fernandez, he said that he was going to take him to jail, but instead of doing that he put him in a hack and only took him home.

Q. Where did that man live?—A. I don't know, sir; some place in Brownsville.

Q. Did you follow the hack?—A. No, sir; I did not.

Q. You do not know where he lived?—A. No, sir.

Q. Did you know his name?—A. No, sir.

Q. How did you know that he took him home?—A. Because I saw the man again in about twenty minutes. He came back up there. He said the policeman had taken him home, but that he wasn't going to stay there, and he came back up town.

Q. He came back again?—A. Yes, sir.

Q. Drunk and disorderly?—A. Yes, sir.

Q. Then what was done with him?—A. The policeman took him off again.

Q. He took him home again?—A. I don't know where he took him the second time.

Q. Is there any other case you have in mind? Let us have them all.—A. I have seen a number of cases where Mexicans—I don't know who they were, very low class of Mexicans—were reeling along the street drunk and disorderly, and the policeman would pay no attention to them; and at other times they would caution them and tell them to keep still or to go out into the suburbs somewhere where they would not be noticed so much.

Q. But every time a soldier got drunk he was arrested?—A. I would not say every time.

Q. Would you say that these few soldiers who were arrested were all the soldiers found drunk on the streets of Brownsville during the whole time you were there?—A. No, sir.

Q. Would it not be a very small percentage of the men, to your knowledge, who were actually drunk in saloons and on the streets?—A. I would not say about that. I expect it would be a tolerably small percentage, because as a matter of fact I know there have been dozens of soldiers arrested there that I have not named, that I don't remember the names of, and I don't remember the cases. I have not named nearly all of them; I am certain of that.

Q. I have tried to get all of them from you.—A. I have named all of them that I can remember the names of the men. I can remember the occasions.

Q. The people of Brownsville always have treated you nicely?—A. Yes, sir; I believe I can say that they have.

Q. You have been into the saloons and you have been at the hotels?—A. Yes, sir.

Q. And at different places in Brownsville?—A. Yes, sir.

Q. And never had any trouble?—A. No, sir.

Q. Was it not your observation that as long as a person behaved himself, citizen or soldier, he did not have any trouble?—A. As a rule; yes, sir; that was the rule.

Q. That was the rule. And is it not a fact, Sergeant, from your observation in any town, that any policeman may sometimes overstep his bounds in arresting somebody?—A. It is my opinion that it happens in a number of places; yes, sir.

Q. And that occurred at Brownsville?—A. It was more noticeable there than any place ever I was.

Q. That is, their arresting soldiers or citizens generally—which do you mean?—A. It seemed to me that especially it was soldiers, or more often than citizens, for the same offenses. It appeared that way to me.

Q. The fact that these men arrested were of your command and company has nothing to do with forming your opinion, of course?—A. No, sir; not at all.

Senator WARNER. Not a particle. I think that is all.

By Senator FORAKER:

Q. The cases you have given were all of men in your own company, as I understand?—A. I believe they were all in my company. Shupolsky was in my company; Bryan was in my company, and Parker was in my company. Shupolsky and Parker are not members of my company now. I think they are both discharged and not in the service now.

By Senator BULKELEY:

Q. I think you mentioned a man of Company L, also?—A. Yes, sir; but I can not remember the man's name.

By Senator FORAKER:

Q. Do you remember the case of Baker?—A. That happened before I went to Brownsville. I remember that; yes, sir.

Senator FORAKER. I do not care to go into that. Do you object to my asking him some questions that I forgot before?

Senator WARNER. Certainly not. I only wanted to finish up my line of questions when I started.

By Senator FORAKER:

Q. The Senator in one of his questions assumed, as I understood, that the 400 cartridges that are allowed to each man for target practice—for practice during the target season—were issued to a man all at once. Is that true or not?—A. No, sir.

Senator WARNER. I will say this, there was no such assumption.

Senator FORAKER. Your question was so framed. I did not think you intended that, but I was afraid there might be a misunderstanding.

By Senator FORAKER:

Q. As a matter of fact, there is issued to each company so much ammunition, and the amount of it is generally based upon a calculation which allows 400 cartridges to each man.

Senator BULKELEY. For the year?

A. Yes, sir.

Q. And that is issued to him from time to time as he engages in target practice?—A. Yes, sir.

Q. It is issued only on the target range, under the eye of an officer?—A. Yes, sir.

Q. And is issued to him to be used right then and there?—A. Yes, sir.

Q. Now, speaking about cartridges, have you any knowledge of any of the citizens of Brownsville having any cartridges of the regulation Army kind—the Springfield rifle cartridges? Have you

Q. And you were stationed at Brownsville how many years?—A. It amounted to about nineteen months; from the 26th day of December, 1904, to the 5th day of July, 1906.

Q. And this order stating that the Twenty-fifth was to relieve the Twenty-sixth had been promulgated how many weeks before the 5th of July, when you actually left there?—A. I do not remember, sir.

Q. Some weeks, was it? I suppose the record will show that.—A. Yes, sir; probably three weeks, or something like that.

Q. These conversations you heard were either in the saloons or the doors of saloons, most of them?—A. Not all of them; no, sir.

Q. Which of them was not in a saloon or in the door of a saloon?—A. The one I had with Policeman Dorrity, and also with Policeman Padron.

Q. But the other three were?—A. I believe the other three all were—with Fernandez and Mr. Weller.

Q. Now, Dorrity was a policeman?—A. Yes, sir.

Q. Not an officer of the police?—A. No, sir.

Q. How did that conversation come up, Sergeant?—A. As well as I can remember, he spoke to me first. He asked me something about the truth of the colored soldiers coming to relieve us.

Q. Yes.—A. As near as I can remember that is the way the conversation started.

Q. Then what was said?—A. I told him that it was true; I supposed that they were coming; there was an order to that effect.

Q. Yes. Did he express himself as dissatisfied? What did he say?—A. He said that he was afraid there was going to be trouble if they came; that people there did not want them there, and he was afraid it would cause trouble if they came. That was about the substance of it.

Q. Anything further?—A. That was the most, I believe. That was about the substance of the talk. We talked quite a good deal.

Q. His regret, then, was that it might cause trouble, because the people did not want the colored troops there?—A. Yes, sir.

Q. And also, in that connection, he expressed regret that the Twenty-sixth was going to leave, did he not?—A. I think he did, sir; I am not positive about that. I think he did.

Q. Yes. And I suppose you, by way of compliment, expressed regret that you were going to leave?—A. I do not think I did. I think I told him that I was glad to get away from there.

Q. That you were glad to get away from there?—A. Yes, sir.

Q. You expressed a feeling of joy rather than of sorrow that you were going to leave there?—A. Yes, sir.

Q. That was to Dorrity?—A. Yes, sir.

Q. And then you had a talk with Weller?—A. Yes, sir.

Q. What did Weller say?—A. He told me that he was very sorry that they were coming there, and that he did not think they would be there very long, because the people would get rid of them some way; that they wouldn't allow them to remain there very long.

Q. Did he say anything more?—A. Nothing particular, more than that.

Q. That was all he said?—A. Yes, sir; that was about all. I talked quite a while with him, but that was the most of his remarks, that they wouldn't remain there very long, because the people wouldn't have them there; something like that—didn't like them.

Q. Fernandez, I believe, was the policeman you had a talk with?—A. Yes, sir.

Q. He spoke English, you say, very well?—A. Yes, sir; he spoke tolerably good English.

Q. Where was that conversation?—A. The first conversation I had with him was in Mr. Weller's saloon, I believe; the first one I remember of.

Q. Were you taking a drink there?—A. No, sir; I was not taking a drink at the time.

Q. What was your business in there?—A. Nothing particular; I just walked in. There was quite a number of soldiers in there, the way I remember it. I might have been looking for some one; I don't remember now.

Q. I do not care about that. Now, as to Fernandez, what was his language?—A. He asked me about the colored soldiers coming down there, and I told him that I understood they were coming, and he says: "We don't want them down here;" he says, "We ain't going to have them down here;" and he tapped his gun with his hand, and he says, "I want to kill a couple of them as soon as they get here."

Q. He limited the number to two?—A. Yes, sir.

Q. That was there publicly?—A. Yes, sir; it was tolerably publicly.

Q. Was Fernandez a man that talked a great deal?—A. I can't say that he was a very great talker; no, sir.

Q. Did you report that talk to anyone?—A. No, sir.

Q. Have you ever told it to anyone at all?—A. I talked it over with some soldiers in Camp Mabry, after this trouble occurred down there.

Q. Anyone else?—A. Yes, sir; I have talked it over since then, I believe.

Q. You came here from what place?—A. From Fort Sam Houston, Tex.

Q. That is where you are stationed now?—A. Yes, sir; that is my proper station.

Q. Did you pay much attention to the remark of Fernandez?—A. Not at the time; no, sir; I did not pay much attention to it.

Q. Why did you not?—A. I thought it was more of a brag at the time.

Q. That is what I assumed—that you regarded it more as idle talk—brag.—A. That was my idea at the time.

Q. It would naturally occur to you that if a man was going to kill two men he wouldn't go around boasting of it?—A. No, sir.

By Senator OVERMAN:

Q. In these conversations, did any of them tell you that they were going to appeal to their Congressmen and to Senators Bailey and Culberson to get those troops away from there?—A. I heard Weller say something about that—the citizens were going to get up an appeal that they be not sent there.

By Senator WARNER:

Q. I was coming to that. Was not that given, in connection with the other statement, as a reason why they would not stay there long, because they would get their Senators and Congressmen to have them

Q. But you must use rags in order to thoroughly clean a gun?—A. Rags or something of that kind.

Q. State whether or not those rags should be saturated with any preparation, such as sal soda, or with water, in order to do their work effectively.—A. They should be, with some kind of cleaning material. We use various kinds of cleaning material. Sometimes we use metal polish, if the gun is pretty dirty, to help cut the dirt out.

Q. How often have you got to pass a rag back and forth through that gun in order to clean it and get the powder out of it?—A. I could not begin to say, sir, because so many times I couldn't count. We can pass a rag through there until we can look through the barrel and it looks tolerably clean and bright, and then set that rifle aside for half an hour and then look again and it will look black.

Q. If it looks that way it is not clean?—A. That means that it was not thoroughly cleaned; yes, sir.

Q. Is that the effect of this high-explosive powder—what do you call it—the nitro powder?—A. I couldn't say the name of it.

Q. You only know the experience you have had?—A. Yes, sir.

Q. You not only have to swab it out in that way, but you have to dry it out?—A. It must be dried when you are through cleaning, or it will not stay clean.

Q. When you are through cleaning the barrel, what do you have to do with the chamber and the bolt?—A. It must be cleaned at the same time. That part of it down here, these small corners next to the chamber, always accumulate more or less powder, and sometimes it is very difficult to clean those out; it is hard to get to them.

Q. How do you get to them?—A. In various ways. Some take a nail, and others a plain stick, and put a piece of rag on it and get down in the corners there [indicating].

Q. Is that or not a tedious kind of a job?—A. Yes, sir; it is very tedious.

Q. Tell us whether or not you could clean that gun in the dark so that it would pass an inspection, cleaning the bore and the chamber; always, I mean, after it has been fired a half a dozen times or so?—A. I think it would be impossible, sir. There is some of this dirt that I don't believe it would be possible for a man to get at in the dark. He couldn't see it and I don't believe he could ever find it.

Q. Did you ever see any commissioned officers cleaning these guns?—A. I never remember of seeing one.

Q. You have seen the men doing it?—A. Yes, sir.

Q. How often do you have inspection?—A. Usually once a week, each Saturday morning.

Q. Except when you are doing target practice, you do not have inspections during the firing, as a rule?—A. Not as a rule.

Q. But when you do not have target practice you do have this inspection, and you are talking about the inspection after your gun has been fired?—A. Yes, sir.

Q. Now, tell me about what the rules and regulations in the Twenty-sixth Infantry were in your company—Company M, I believe?—A. Yes, sir.

Q. When you come to the target firing, the target range, as to cartridges, how were the men supplied with cartridges and by whom and to what extent were they supplied?—A. There is a certain allowance of cartridges for each man; I believe now it is 400 for each

man on the target range. That is all that can be used, and when a man is ready to fire at any range his cartridges are issued to him as a rule immediately before he steps up to the firing point. That is to say, he is handed the number that it is required of him to fire at that point.

Q. Suppose he is to shoot ten cartridges, we will say for illustration, upon the theory that he is going to fire ten, and in fact he only fires six of them, what becomes of the other four; what does he do with them?—A. As a rule he has got to turn those back in. There is a box, usually, of cartridges right there, and a man in charge of it, generally the quartermaster-sergeant, and if a man does not use his cartridges he turns them right back to him immediately.

Q. Now, state whether or not this issuing to him of his allotted number of cartridges, and this firing by the soldier of these cartridges, and this accounting for all surplus cartridges is all under the eye of an officer.—A. Yes, sir; it is as a rule. It might be sometimes for a minute or two that the officer is not there, but there is supposed to be an officer right there to see it all.

Q. And if a commissioned officer is not there, noncommissioned officers are there, are they not?—A. Yes, sir; they have to be.

Q. State whether or not men are allowed or permitted to filch cartridges—I mean appropriate them to themselves—on the target range.—A. No, sir; they are not allowed to do so.

Q. If a man should do that, would he not be violating the regulations and rules to which he is subject?—A. Yes, sir; he would be violating them.

Q. And what would be the result?—A. He would be very likely tried by court-martial and punished.

Q. Is it not true that men are very often punished for such offenses as that, or do they often offend in that way?—A. I do not remember of anyone offending in that way.

Q. But if he should offend he would have to do it at the risk of being detected by his officer, would he not?—A. Yes, sir; he would.

Q. Where does the officer stand when he is firing?—A. He generally stands something like 20 feet in the rear of the man—10 to 20 feet in rear of him.

Q. It is the officer's business to watch the man, is it?—A. Yes, sir.

Q. And the noncommissioned officers' also, is it?—A. Yes, sir.

Q. So that men would not have very much opportunity, as I understand you, according to your experience in the Twenty-sixth Infantry, to accumulate surplus cartridges from the target range?—A. I do not see how they could, sir.

Q. Yes. Now, you were not at Fort Brown when your battalion left there, were you? Oh, yes; you left with your battalion, did you, when it left Fort Brown?—A. Yes, sir.

Q. Can you give us the day—the month and the day—when you left?—A. Yes, sir; it was the 5th of July, 1906.

Q. Do you remember when you got orders to leave there on the morning of the 5th how long before you left?—A. It was not a great while; I can not say how long. It seems to me like it was ten days or two weeks—something like that.

Q. You do not remember as to that?—A. No, sir.

Q. You remember that you did pack up and leave; you did not remain behind?—A. No, sir.

Q. But you consider there was more prejudice against the black than the white, do you?—A. Yes, sir; I do.

Q. But you feel sure that the prejudice in Brownsville was against the uniform and the soldiers as such?—A. Among a whole lot of the people of Brownsville; yes, sir.

By Senator OVERMAN:

Q. Did this prejudice prevail in other camps, in other towns?—A. I have never noticed it in the places I have been.

By the CHAIRMAN:

Q. On the other hand, were there any very close friendships between the soldiers and the people of the town, and association back and forth?—A. Not as a rule. That would be an exception.

Q. You would call it an exception rather than a rule that there was very much social intercourse between the soldiers and the townspeople?—A. Yes, sir.

Q. That would be true of the white as well as the black, would it?—A. Yes, sir.

By Senator FOSTER:

Q. When did you first enlist?—A. April 26, 1898.

Q. From what State?—A. Illinois.

Q. You then remained in the service how long?—A. A few days over a year, about a year and eight days, I believe; until May 2, 1899.

Q. Were you discharged?—A. Yes, sir.

Q. For what cause?—A. The regiment was mustered out at that time. It was a volunteer regiment, and the entire regiment was mustered out on that day.

Q. Then you remained out of the service for how long?—A. I remained out for about a year and a half.

Q. Where did you live during that time?—A. I spent a part of that time in Indianapolis, Ind., a part of it in Chicago, and a part of it in Iowa.

Q. In what capacity?—A. The greater part of the time, I believe—a part of that time I was railroading, working for the Indianapolis, Bloomington and Western Railroad, in Indianapolis, and for the Chicago and St. Paul out in Iowa.

Q. Then when did you reenlist?—A. I reenlisted the second time the 1st day of December, 1900.

Q. In what regiment?—A. In the Twenty-sixth Infantry, the same regiment and company that I am in at present.

Q. Have you been in that regiment and company ever since?—A. No, sir; I was out of the service a year and about two weeks.

Q. Did you voluntarily retire from the service?—A. Yes, sir.

Q. And then you reenlisted?—A. Yes, sir.

Q. What day was your last reenlistment? What was the date of your last reenlistment?—A. It was the 6th day of this month, March, this present month. I just reenlisted the 6th day of this present month, March.

Q. When did you last enlist prior to your last enlistment?—A. It was the 4th day of December, 1904.

Q. From 1904 up to your going to Fort Brown where were you stationed?—A. I joined my company at Fort Brown.

Q. In 1904?—A. I spent the greater part of that year, 1904, at

the world's fair, working for the exposition company; the world's fair in St. Louis.

Q. Not after your enlistment?—A. Before my enlistment, sir, in 1904.

Q. You reenlisted this March, and then what were you doing; were you in the Army or just discharged from the Army when you reenlisted in March?—A. I was discharged from the Army on a special order. I had not served my full enlistment, but on account of my regiment going to the Philippine Islands. There was an order issued by the War Department that men would have at least two years and three months to serve who were going, with the exception of noncommissioned officers. If they did not have that much, if a man had less time than that to serve, he could be discharged and reenlist, so that upon going to the islands he would have nearly three years to serve. So I took my discharge after serving a little over two years and two months and reenlisted, so that I would go to the Philippine Islands in June with nearly three years to serve.

Q. You went to the Philippine Islands?—A. Yes, sir.

Q. Then were you discharged after your service in the islands?—A. Yes, sir; after coming back to the United States.

Q. What day was that?—A. The 30th day of November, 1903.

Q. Then how long did you remain out of the Army?—A. I remained out one year and about two weeks.

Q. Bringing your enlistment, then, up to 1904?—A. Yes, sir.

Q. After that reenlistment where were you stationed?—A. Most of the time at Fort Brown, Tex. I reenlisted in Chicago to be sent to Fort Sam Houston; San Antonio.

Q. That was in 1904?—A. Yes, sir; in December.

Q. In what regiment and in what company was your reenlistment?—A. In Company M, Twenty-sixth Infantry; my present company.

Q. So that you have been in Company M of the Twenty-sixth Regiment since 1904?—A. Yes, sir; and three years previous to that time.

Q. Yes. Now, how much of your time after this reenlistment in 1904 have you spent at Fort Brown?—A. I would say all of it, with the exception of between three and four months, up to the 5th of last July.

Q. During what year were you absent from there between three and four months?—A. I was absent about one month in the year 1905. I was going to the target range at Fort Ringgold, Tex.; something like a hundred miles up there; going there attending the target practice and marching back; something like a month, I think it was; a little over a month. Last year I was on furlough for three months. I did not take quite three months. I was on furlough from the 7th of March until about the 1st of June.

Q. You were then absent from Fort Brown up to about the 1st of June; three months preceding the 1st of June you were absent from Fort Brown?—A. Yes, sir; a greater part of that time I was absent.

Q. When was this order issued for the colored troops to replace you at Fort Brown?—A. I can't say positively, sir, about the date, but it appears to me that it was in the month of June, 1906; that is my recollection, that it was about that time. The exact date I can not say.

Q. Did you discuss this order generally with the citizens of the town?—A. With several of them; yes, sir.

Q. Did you solicit these interviews or conferences or did the parties come to you?—A. Always it was the parties speaking to me first about it.

Q. These parties you had met before and were on terms of intimate social relation with them?—A. I can't say I was. They were all acquaintances. I can't say that I was intimate with any of them.

Q. These conversations that you had with the police and with Mr. Crixell and Mr. Weller—A. I didn't have any conversation with Mr. Crixell. I was speaking to a policeman in front of his saloon.

Q. These conversations were had, then, within a short time of each other, were they not?—A. Yes, sir; I think all within a period of two or three days.

Q. And each one of these parties came up to you voluntarily and told you of their feeling toward the negro troops, and one of them stated that he was going to kill two of them?—A. That he wanted to or would like to kill two of them.

Senator FOSTER. That he wanted to; yes.

By Senator OVERMAN:

Q. You spoke of these soldiers being arrested. Were you ever arrested?—A. No, sir.

Senator FOSTER. I was going to come to that.

Senator OVERMAN. Go ahead.

By Senator FOSTER:

Q. Then you had frequent conversations with these officers and these citizens before this, conversations on other subjects?—A. Yes, sir; I had.

Q. You were frequently in town?—A. Yes, sir; quite frequently.

Q. Frequently at the saloons?—A. Just tolerably. I dropped in pretty often. It was a small place.

Q. You went downtown wherever you saw fit?—A. Yes, sir.

Q. You met these officers and officials, and met the citizens generally. During your visits downtown at any of these saloons were you ever interfered with by any of these officials?—A. Yes, sir; I was, very shortly after I came to Brownsville. I came down there in civilian clothes.

Q. In civilian clothes?—A. Yes, sir; before I had a uniform. There was a policeman who was drunk one night, and he told me he wanted to arrest me, or something like that. In fact, I was not speaking to him at all. That was just before—the same policeman that struck this man Parker.

Q. Did you know the policeman?—A. I knew him when I saw him. That was about the second time I had ever seen him.

Q. Was he arresting you because you were a United States soldier?—A. I don't think he said anything about that. He was very drunk.

Q. Did he know that you were a United States soldier?—A. I don't think he did, sir.

Q. You had on civilian clothes?—A. Yes, sir.

By Senator OVERMAN:

Q. Where was that?—A. That was in Crixell's saloon.

Q. What were you doing in there?—A. I was talking to the bartender at the time.

Q. Were you drinking at the time?—A. I don't remember whether I was or not.

Q. You do drink?—A. What, sir?

Q. You do take a drink occasionally?—A. Yes, sir.

By the CHAIRMAN:

Q. Do I understand that you were dressed in civilian clothes?—A. Yes, sir.

Q. You were out on pass, I suppose?—A. I had not been issued any uniform. I had been there only a few days, and I had not been issued any uniform.

By Senator OVERMAN:

Q. Do you get intoxicated at times?—A. No, sir; I can't say that I do.

By Senator FOSTER:

Q. How do you account for the fact that you went into that town wherever and whenever you saw fit to go, and you were never disturbed by the officials, and you were not arrested, and other members of your company were arrested?—A. Well, one thing, I always made it a rule to attend strictly to my own business, and I never associated with the lower class of Mexicans around there, and I never gave them any reason in the world to say anything to me or to arrest me.

Q. I know, but you had frequent conversations with these officials, and why was it they never disturbed you? Was it because you were attending to your duties and conducting yourself properly?—A. I suppose that was it; yes, sir.

Q. If other soldiers had acted as you acted, would they not have been treated just as you were treated by the officials? Is not that your judgment?—A. I think they would, ordinarily; yes, sir.

Q. I understood you to say in your examination in chief that you had never had any conversation with anybody about your evidence, or about this case. Am I correct in that?—A. No, sir; I didn't say that.

Q. Well, what did you say about that?—A. I said that I had talked it over with several parties.

Q. Since your arrival here or before you came here?—A. Before I came here, sir.

Q. Did you not talk with—A. (Continuing.) And I have talked with some since I came here, I believe.

Q. Did you not talk this matter over at Fort Reno, or wherever these 12 men were confined?

Senator FORAKER. At Fort Sam Houston.

Q. (Continuing.) At Fort Houston?—A. No, sir.

Q. Did you never have any conversation with them on the subject of Brownsville?—A. No, sir; not a word. I never spoke to them about Brownsville at all. The conversation I had was mostly with other white soldiers in my own command.

Q. You know nothing about that shooting?—A. No, sir; I was not in the town at the time.

By Senator OVERMAN:

Q. Were these conversations you had with soldiers or officers?—A. With both; generally with the soldiers, the enlisted men.

Q. What officers did you talk to?—A. I talked with Captain Roche, my captain, and with Lieutenant Archer, and some, I believe, with Lieutenant Thompson.

Q. Did they ask you about it, or did you volunteer the testimony?—A. It just came up in a general way. We were just remarking about it in a general way. I do not mean to say that I told those officers what I am telling here—all.

Q. You say you did not tell them what you tell here?—A. Not all of it; no, sir.

Q. Did you tell those officers the conversations you had with these policemen?—A. I don't believe I did, that part. I don't believe I told anyone.

By Senator FOSTER:

Q. Did you tell anyone before you came here practically what you have stated here to-day?—A. I told it in San Antonio after this occurred and at Fort Sam Houston; yes, sir; after this trouble occurred.

Q. What bearing has your testimony here to-day upon the trouble and difficulty in Brownsville on the 13th of August last?—A. I don't think I am in a position to say, sir, myself.

Q. You have discussed, however, this evidence in Fort Sam Houston before you came here?—A. Yes, sir; I think that I told part of what I knew, part of what I had heard, and expressed my opinion about a part of the population of Brownsville, and so forth, to several different parties, mostly soldiers.

Q. Did you communicate these facts to anyone outside of Brownsville, or communicate your opinion and views on this subject to anyone outside of Brownsville?—A. At any time—

Q. At any time since this occurrence.—A. Yes, sir; I have.

Q. To whom?—A. I could not name all the parties, sir. I have talked, though, with a great many people—a great many people in different places. You see, I was in Camp Mabry, Tex., near Austin, at the time that the trouble occurred, and I remember talking it over with a number of people there. They found out that I came from Fort Brown and they naturally asked a great many questions, as people naturally would, just looking for information. I talked it over with people there and with other people since.

Q. Did you tell anybody here, by communication or otherwise, before you came here?—A. Here in the city of Washington?

Q. Yes.—A. No, sir.

Q. You did not write to anybody here about it?—A. No, sir.

Q. Did you have any communication while at Fort Sam Houston with any representative—any lawyer?—A. Not that I know of, sir.

Q. Did not one come to you and solicit any information on this subject while at Fort Sam Houston?—A. There was a man came to me one day and asked me a number of questions, and I asked him why he wanted to know—they were so pointed—and he said he couldn't tell me exactly.

Q. Who was the man?—A. His name, I believe, was Ferguson. I think that is the way he introduced himself.

Q. Who was he, a lawyer?—A. I don't know, sir. I didn't ask him.

Q. Did he tell you that he was getting up evidence in this case?—

A. Yes; he finally told me that. I told him that I didn't care to talk and answer the questions he asked me, and then he told me that he was getting up evidence in this case.

Q. Then did you tell him?—A. He gave me his name.

Q. Then did you tell him?—A. I told him some of the things I have told here; yes, sir.

Q. Did he make a written statement of them?—A. No, sir.

Q. Did he not write it down?—A. No, sir; he did not.

Q. Did he make a note of what you told him?—A. I think he did, partly; yes, sir.

Q. Have you met him since you have been here?—A. Yes, sir; I met him one day; I think the day I arrived in Washington.

Q. How long have you been here?—A. I arrived here, I believe, Monday of this week.

Q. And did you go over with him practically what you went over at Fort Sam Houston?—A. After coming here?

Q. Yes.—A. No, sir.

Q. Did you discuss the conversation that you had with him at Fort Sam Houston?—A. No, sir; he made some remark about it, I forget what it was, but we didn't discuss it further. He asked me no questions about it at all.

By Senator OVERMAN :

Q. This Ferguson is a white man or a black man?—A. He seemed to be a white man, sir.

Q. You know?—A. Sir?

Q. You can tell a black man from a white man?—A. He seemed to be white; yes, sir. I have seen them that you couldn't tell what they were.

Q. How is that?—A. I have seen a good many of them that you couldn't tell what they were. You find a lot of them like that in Brownsville.

Q. Couldn't you tell whether this man was a white man or a black man?—A. He appeared to me to be a white man.

Q. Was he a dark man?—A. He appeared to be a dark-complexioned man.

Q. You would not say that he was a white man?—A. I wouldn't say.

Q. You have doubts of his being a white man?—A. I have never given the matter any consideration.

Q. Well, giving it consideration now, have you any doubts whether he is a white man or a colored man?—A. I don't know how to answer that, sir.

Q. Very well, if you can not answer it—A. He might be a colored man, I couldn't say. He appeared to be a white man to me.

By Senator FOSTER :

Q. Did you discuss with him the general line of your testimony?—

A. Not as fully as I have here.

By Senator BULKELEY:

Q. You said in reply to some question that in talking with your friends in Brownsville you intimated that you were not sorry to go away from there?—A. Yes, sir; I did.

Q. Why? Was it not a pleasant post?—A. The post was; I liked the post well. I did not like the community—the town—as a rule, the people in the town. That was one reason why I wanted to get away from there.

(At 1.30 o'clock p. m. the committee took a recess until 2.30 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock and 30 minutes p. m.) resumed its session.

Present: Senators Warren (chairman), Foraker, Hemenway, Bulkeley, Warner, Pettus, Foster, and Overman.

TESTIMONY OF OTIS C. WEST.

OTIS C. WEST, being duly sworn, testified as follows:

By Senator FORAKER:

Q. Please give us your name in full?—A. Otis C. West, Company B, Twenty-sixth Infantry, Fort Sam Houston, San Antonio, Tex.

Q. You belong to Company B, you say?—A. Yes, sir.

Q. Twenty-sixth Infantry?—A. Yes, sir.

Q. What rank have you?—A. I am a private, sir.

Q. You are a private in that company?—A. Yes, sir.

Q. How long have you been in the service?—A. Almost seven years straight, nine years double time.

Q. Have you served in Company B all the while?—A. No, sir.

Q. What other company have you served in?—A. I served six years in Company I, Twenty-sixth Infantry, from its organization in 1901 until the 5th day of January, 1907.

Q. From its organization?—A. Yes, sir; at San Francisco.

Q. Was Company I organized only six years ago?—A. Yes, sir; the Twenty-sixth Infantry was organized in 1901.

Q. And you have served in that regiment all this while?—A. Yes, sir.

Q. And in Company I until your last enlistment?—A. Yes, sir.

Q. How did you come to enlist in Company B?—A. I was well acquainted with Capt. George Houle, had been with him in the islands.

Q. He is the captain of Company B?—A. Yes, sir; and he wished me to join his company if I reenlisted, and I did so.

Q. Where all have you served during this period? You speak of being in the islands.—A. Two and a half years in the islands.

Q. You mean in the Philippines?—A. In the Philippines, and the balance along the border, except the last six months in San Antonio, since the Austin maneuvers.

Q. Were you at Fort Brown with the Twenty-sixth Infantry?—A. With the Third Battalion part of the time.

Q. That battalion consisted of what companies?—A. The last four companies, I, K, L, and M.

Q. Was I Company there all the while?—A. No, sir.

Q. Where was it a part of the time?—A. At Fort Ringgold. We exchanged with Company M.

Q. Fort Ringgold is further up on the Rio Grande River?—A. About 120 miles.

Q. Were you up there with your company?—A. Yes, sir.

Q. What time did you go to Fort Brown?—A. I went there twice. The first time we landed from the Philippines, along about the 1st of September, 1903, and the following summer we removed to Ringgold.

Q. That would be in the summer of 1904.—A. Yes, sir.

Q. That is, you were at Fort Brown from what time in 1903?—

A. About the 1st or 5th of September.

Q. Until the middle of the summer of 1904?—A. Yes, sir.

Q. Then you went back to Fort Ringgold and remained there till when?—A. I think it was the last of May last year we removed back to Fort Brown.

Q. And remained there until what time?—A. The battalion moved away, I think it was the fore part of July, to San Antonio.

Q. State whether or not you have been detailed on any special duties during the time of your service, and particularly as to the year 1906.—A. On extra duty. There is a little difference between special and extra duty.

Q. What is the difference?—A. It is the same, only you draw extra pay for one and for the other you do not.

Q. What is the extra duty you have been on?—A. Most of the time in the quartermaster's department as teamster.

Q. State whether or not you left Fort Brown on the 5th of July with the battalion; and if not, why not.—A. I did not. I was left behind with a detail of about 10 men to a company to help clean up and help the quartermaster.

Q. That is, you were of that detail?—A. Yes, sir.

Q. In that detail?—A. Yes, sir.

Q. Who was in command of that?—A. Lieutenant Thompson. He was the quartermaster.

Q. He testified here yesterday. He was the quartermaster of the battalion?—A. Yes, sir.

Q. Were you serving under him?—A. Yes, sir.

Q. Tell us whether or not you were about the barracks after the troops left; and if so, in what condition you found them—first in a general way and then I will ask you specifically.—A. Well, I was not very much about the barracks—driving back of the barracks. The road runs close.

Q. There is a map at your left, Mr. West. Let me call your attention to it.

(Senator Overman pointed out the locations on the map.)

A. That is about correct, that map; the whole of it, nearly, except right here [indicating].

By Senator FORAKER:

Q. Which one of the barracks did your company occupy?—A. The last time we occupied barracks 36. It is the old commissary.

Q. Did you sleep there at the barracks?—A. No, sir; I slept at the corral.

Q. Which is away out here [indicating]?—A. Away out here; yes, sir.

Q. What day was it that the Twenty-sixth left—the battalion that was there?—A. I could not give you the date at all. I helped to move them.

Q. Do you remember the date?—A. I don't remember the date.

Q. You helped to move them anyway?—A. I was teamster, and I was there at 6 o'clock in the morning; ordered to help haul to the depot.

Q. Let me refresh your recollection. It has been testified here, and there is no dispute about it, that the battalion left on the morning of the 5th of July?—A. Possibly they did. I know it was shortly after the 1st. I would not say.

Q. Assuming that that was the 5th of July, what time did they get off?—A. They got off as quick in the morning as we could get them off.

Q. By helping to move them you mean you helped to move their baggage down to the depot?—A. Yes, sir; that was my business.

Q. How far is the depot from the fort?—A. It is nearly a mile from the fort to the depot.

Q. You mean you hauled it down there?—A. Yes, sir.

Q. There were other wagons, I suppose, hauling?—A. Yes, sir; supposed to be a wagon to each company.

Q. You spoke about a road there somewhere. Where is that road?—A. The road is right in the rear of these barracks.

Q. There is a road along there, is there?—A. Yes, sir.

Q. Inside the wall, between the wall and the barracks?—A. Yes, sir. That is the road that the corral men always take. We were not permitted to go around this other way.

Q. Where does that road lead to?—A. It leads to the corral. It is not marked down here. It winds off.

Q. Does it go around in the rear or in front of the guardhouse?—A. In the rear.

Q. It extends on out to the corral?—A. Yes, sir.

Q. How far is that road from the wall, where it passes between the wall and the barracks?—A. Well, it is not very far. There is a little row of buildings, a wood shed, and the rears.

Q. Some sinks?—A. Between the rears and the wall there may be perhaps 4 or 5 feet.

Q. As you were driving along there, how far would you be from the rear porches of the barracks?—A. Oh, it might be 10 or 15 yards.

Q. They would be in your immediate view if you happened to look in that direction, would they?—A. Yes, sir.

Q. State whether or not, after this battalion left, you had occasion to go up and down that road.—A. I did. I was going up and down there several times a day, driving.

Q. I will ask you whether or not you noticed the condition in which the back porches were left, as to whether or not there was anything piled on them of any kind, any articles that had been left behind by the men who had vacated the barracks?—A. There was. Now, it was this way, when any troops are ordered to move, especially on a short order like that, they are always throwing away stuff

that they do not want to carry with them—trash. Some of it is fairly good and some of it is not worth anything. There is always a certain amount of hangers-on always ready to take those things. I thought nothing of it at the time, just about there, children—

Q. Did you observe any articles of clothing on the back porches?—

A. Oh, yes; there was khaki uniforms, hats, and leggings.

Q. Those were cast-off garments, were they?—A. Well, they were supposed to be, but I did not examine them. I could not say how good they were or how bad.

Q. I will ask you if you went into the barracks?—A. I did not. I think I was in Company K's one time. I was looking for something. That is the old Company K barracks that was down here.

Q. Below the gate, toward the river?—A. Yes, sir.

Q. That is now barracks D?—A. Yes, sir.

Q. I will ask you whether you observed any ordnance or any cartridges or bandoliers or anything of that kind?—A. Not at that time; I only noticed those the morning of the day they left.

Q. The morning of the day they left, what did you observe?—A. Well, there was bandoliers. I did not know what they were then by that name. I knew what they were for.

Q. How did it come you did not know what they were?—A. Because we never had had them issued to us. Our company had never had any.

Q. You had none with the Krag-Jørgensen?—A. No, sir.

Q. These bandoliers were issued to you for the first time with the Springfield rifle?—A. So I understand.

Q. And your company, Company I, did not have them at that time?—A. No, sir.

Q. How did it happen you did not get rifles and ammunition when the other companies did?—A. That I can not answer. I know Company B and Company I at Fort Ringgold had orders to have early target practice, and we finished with the Krag-Jørgensen.

Q. At Fort Ringgold?—A. Yes, sir. And just the day before we left we had the Springfield issued to us, and the ammunition was issued to us, but by some oversight we did not take it with us. The quartermaster-sergeant spoke to the captain about it, and he said, "Never mind; we will save the trouble of hauling it down," and it was shipped to us afterwards.

Q. Did you go by wagon down to Fort Bröwn from Fort Ringgold?—A. Yes, sir; I was teamster.

Q. Leaving your ammunition behind to be shipped afterwards?—A. Yes, sir.

Q. And that reached you at Fort Brown some time later?—A. I think it did, sir.

Q. And was it issued to you, or not, at Fort Brown?—A. I never had none issued to me.

Q. You were then on this extra duty?—A. Yes, sir.

Q. Not doing duty in that line with your gun?—A. No, sir.

Q. Well, you saw what you now know were bandoliers, as I understand, but you did not know what they were then?—A. I did not know them by name, but I knew what they were for.

Q. Can you describe what it is you refer to?—A. Well, it is a sort of a belt, with pockets that hold two clips.

Q. State whether or not you saw any of those at any place after this battalion left. Is this what you refer to [showing witness a bandolier]?—A. Yes, sir; they come in boxes, filled with cartridges.

Q. Do you know how many cartridges they hold?—A. I believe there is two clips in each pocket. I never counted the pockets.

Q. How many pockets?—A. I would not be certain about that.

Q. Each pocket holds 10 cartridges. Is that right?—A. Well, I would not be certain, but I presume it is. As to that, I never examined that.

Q. Now tell us what you saw on these back porches or any other place as to bandoliers?—A. That is all I saw on the back porches—was the cast-off clothing and the young Mexican children taking it off.

Q. These bandoliers—you saw those lying there?—A. I saw a few of them; I would not say how many.

Q. Tell us whether you saw any cartridges on the porch?—A. I saw a few. You will always see them more or less scattered. They get careless.

Q. Did you see any in the possession of anybody?—A. Only one. I was coming in from taking a load down town, and I met a Mexican boy with a few in his hat.

Q. Where did you meet him?—A. At the gate going out, at Elizabeth street.

Q. As you were driving in, in your wagon, and he was going out?—A. Yes, sir.

Q. Now, what did he have?—A. He had a few cartridges.

Q. When was this?—A. It was the same day.

Q. The day that they left?—A. Yes, sir.

Q. He had some cartridges in his hat?—A. Yes, sir.

Q. Carrying his hat in his hand?—A. Yes, sir.

Q. Did you have any conversation with him?—A. Nothing more than I just said, "Kid, what are you going to do with those?" And he kind of looked up at me and grinned and said, "I am going to take them down town and sell them to kill niggers with." I thought nothing of it then.

Q. You thought nothing of it then. He said he was going to take them down town and sell them to kill niggers with?—A. That was what the little fellow remarked.

Q. Do you know who that boy was?—A. I do not. I paid no attention to that.

Q. How old a boy was it?—A. It is hard to estimate the age of a Mexican. They may be older than they look or not quite as old. They are deceiving.

Q. How old would you judge he was?—A. I should judge he was 10 or 12 years old, perhaps.

Q. Was he alone when you saw him?—A. No; there were two or three other little fellows with him, with their arms filled with truck of one kind and another.

Q. Of one kind and another?—A. Yes, sir; something that was left behind.

Q. Was there any guard there on duty on the porches taking care of the stuff that had been piled up on the back porches at that time?—A. Well, sir, I could not say, any more than I know there was a detail,

and each detail was supposed to leave a corporal and a certain number of men in charge of the quarters to clean them up. That was the order given by Lieutenant Thompson. Whether they did it or not I could not say.

Q. Have you had any experience down to this time with this new model Springfield rifle?—A. Nothing more than we had a preliminary practice here at Fort Sam Houston just a few weeks ago—the winter practice, as we call it.

Q. You have never been carrying and taking care of the gun, then, regularly?—A. I always took care of a gun, Krag-Jørgensen; always kept it for inspection when I was in post. I always stood inspection on Saturdays.

Q. How about that as to the Springfield?—A. I could see no difference in cleaning.

Q. No; I mean how about the Springfield in comparison with the Krag-Jørgensen as to the requirements that you were under to take care of it?—A. About the same.

Q. Well, did you have occasion to care for this gun and clean it as you had the Krag-Jørgensen before?—A. Oh; since I have had it.

Q. What has been your experience as to the time required to clean one of these new Springfield rifles, bore and chamber and bolt?—A. Well, I can only answer for myself, with my gun; I can not answer for others.

Q. Yes.—A. Of course I clean different than most of them. I use kerosene oil myself. I can do it quicker and take it out more rapidly.

Q. What is it that most of them use?—A. Well, some use, where it is convenient, if they can get soda, why, that is fine to clean it.

Q. That is prescribed by the army authorities, is it not?—A. I believe it is, sir.

Q. Is it not true that the troops are furnished with what they call "sal soda" for so cleaning guns?—A. I never say any furnished.

Q. You used kerosene oil. How did you use that?—A. Well, I have a brush and ramrod; and just dip the brush in the oil and run it up and down, and it cuts the dirt. I used to use it in civil life when I was working in mechanics, cleaning, because it cuts the rust and takes out everything in the way of dirt.

Q. You spoke of using a brush. Did you refer to the thong brush that is found in the butt of the musket?—A. It is similar to that. I bought mine in the commissary. It is a better brush than that. That is a poor brush. This is better.

Q. That which is in the butt of the rifle, you say, is not effective?—A. No, sir; it is no good at all.

Q. Is it or not used much by soldiers in cleaning their guns?—A. No, sir; it is not.

Q. Now, cleaning it in the way you suggest, using that kind of a brush you have described, and using kerosene oil or whatever else you may use, what is your experience as to the time required to clean one of these Springfield rifles after it has been fired, we will say, a half a dozen times, so that it will pass a rigid inspection?—A. In shooting that many times a gun will get pretty hot, and I can clean it perhaps in ten or fifteen minutes so that it will pass inspection; but you let that gun stand an hour or so, and it gets black or blue, dark, and you can not clean it permanently. You have to clean it

several times before it will stay permanently cleaned. It can not be done by one cleaning.

Q. Well, if it has had time to cool off. Do you think that an hour or two would be long enough for it to cool off?—A. Well, it might.

Q. How long would it take, if it had cooled off?—A. It would take a couple of hours for a gun to cool off.

Q. How long would it take you to clean that gun, according to your experience, after it had had time to cool off?—A. It takes longer after it gets cool than if it is hot.

Q. Well, I understand; but how long?—A. Well, fifteen or twenty minutes. I might do it in ten, and it might take a little longer. Sometimes it takes a little longer than it does others.

Q. I am speaking now about your cleaning out the bore and cleaning out the chamber and putting the gun in such condition that it would pass inspection by one of your officers—such inspections as you were subjected to, I believe, once a week, every Saturday.—A. Well, that will take quite a while. Some officers are very particular—exceedingly particular—and some are not. Some will only require you to have the barrel cleaned.

Q. I am assuming that you are going to be examined by an officer who is particular.—A. Well, that will take at least a half an hour in such a case as that.

Q. At least a half an hour?—A. Yes, sir; to do that.

Q. If you spent only ten or fifteen minutes on it, do you think it would be safe to go out on inspection?—A. Well, so far as looking at the barrel, it would. I have only reference to the brightness of the barrel. I was not referring to taking the dirt and dust and oil out of the other parts.

Q. You spoke more particularly of cleaning just the barrel?—A. Yes, sir.

Q. Well, now, I am asking you to take into consideration also the cleaning of the chamber. Is that or not a difficult thing to do—to clean the chamber?—A. If you want to get the dirt and oil out, you have to have clean rags.

Q. Are there not crevices and small places?—A. We generally have a pine stick—sharpen a pine stick and put a rag on the end of it.

Q. If you were going to clean out the bore of a gun so that it would pass inspection, and clean the chamber of the gun after it had been fired, say, a half a dozen times, so it would pass inspection, how long would that take you, perhaps?—A. Oh, I think it could be done probably in a half an hour. I think that would be a reasonable time.

Q. You think it would probably take you that long, do you?—A. I think it would.

Q. Now, could you clean one of these guns that had been fired half a dozen times, so that it would pass inspection, clean it in the dark without any light at all?—A. I would not want to be required to do that. I have never tried it. It would be all guesswork.

Q. Guesswork?—A. It would with me. I could not say.

Q. Do you think you would be safe in going on inspection with a gun that you had cleaned only in the dark?—A. No, sir; I would not dare risk it.

Q. Would not risk it?—A. No, sir.

Q. Did you have opportunity to know what the feeling of the

citizens of Brownsville was with respect to the coming there of this battalion of colored troops that succeeded you?—A. I think I did.

Q. Did you or not go about the city considerably?—A. No, sir; only occasionally, evenings I would take a walk after my work. I associated very little with the people or with the soldiers.

Q. Generally with the soldiers?—A. No, sir; not even with the soldiers.

Q. Very little?—A. Very little.

Q. Did you hear people talking about it or not?—A. Why, yes; after that order came out that we were to be removed and our place taken by the Twenty-fifth you could hear it quite frequently.

Q. You yourself heard it frequently?—A. Yes, sir.

Q. What was the nature of the comments with respect to the coming there of the colored troops—friendly or hostile?—A. Well, they did not seem to like it very well.

Q. What did the people say, if you can tell us?—A. As nearly as I can recollect—

Q. Give us, of course, the substance.—A. Oh, I have heard remarks, but I could not say who said them, for I thought very little of it at the time; supposed it was just mere talk.

Q. Did you hear considerable talk or not?—A. Yes, sir; I did.

Q. Could you hear it almost any place you would go in Brownsville?—A. Yes, sir; commenting on it one way or another.

Q. Can you recall any of the comments you heard?—A. Well, there was one or two places—gambling places—I walked into there, and I heard them talking about it; and I heard two or three expressions that they would find some means to get rid of them, or get rid of the black sons of bitches is the way they spoke about it.

Q. What place was that?—A. I think that was over Weller's place.

Q. He keeps a saloon?—A. I believe he does, down below.

Q. And a gambling place above?—A. I don't know as he runs the gambling place. I think it is rented to some other person.

Q. Who was it you heard make this remark?—A. I could not say as to that.

Q. You did hear remarks of that character?—A. Yes, sir.

Q. What were you doing in there? Were you in there to gamble or drink, or what?—A. No, sir; I never touch the stuff.

Q. You do not drink at all?—A. No, sir; I was just looking around.

Q. Do you gamble?—A. No, sir; I have played with the boys at the post for amusement; that is all.

Q. You do not play in gambling places for money?—A. No, sir.

Q. Well, you heard such remarks in there, I understand. Did you hear any other remarks of that kind in any other place?—A. Well, derogatory to colored troops is all I can say.

Q. From all you heard, was it your opinion that there was a hostile sentiment in that community toward colored troops?—A. I should judge there was.

Q. How had your own troops been getting along in Brownsville?—A. Well, they were not treated the best.

Q. Do you know the policemen there, any of them?—A. Not by name. I had very little to do with them. I know them when I see them; that is all.

Q. Can you tell us what kind of uniforms they wore?—A. While I was there they wore mostly khaki.

Q. The khaki uniform?—A. Yes, sir.

Q. Do you mean this past year, 1906?—A. Well, when we were there before, and this last time.

Q. We have been told that they had blue uniforms that they wore also at some time after Mayor Combe came in. Do you remember when Mayor Combe was elected to office?—A. I do not.

Q. Can you tell us whether or not he instituted any reforms?—A. Well, sir, I could not say.

Q. What was your observation as to whether the citizens carried arms generally of some kind in Brownsville in that vicinity?—A. Why, it seemed to be the custom for everybody to carry arms.

Q. It seemed to be the custom?—A. All the way up to Laredo. I have teamed there for about 400 miles.

Q. Up to Laredo?—A. Yes, sir; and I have never met anyone yet that was not armed.

Q. What have we at Laredo?—A. Fort McIntosh.

Q. Have you been all the way up that Rio Grande Valley to that point?—A. I have, and beyond that.

Q. That is how far, from Brownsville up to Laredo?—A. It is about 240 or 250 miles.

Q. Have you ever been along the Rio Grande on the Mexican side?—A. No, sir; only just been across the river.

Q. What kind of a population inhabits the valley of the Rio Grande between Brownsville and Laredo, up along there?—A. Now, I might answer that so that the committee will understand. There is a strip about a hundred miles wide along the Rio Grande—you must not judge Texas by that strip of country, not by any means, for outside of that strip I never found a more hospitable or nicer people in my life—but that strip seems to be a dumping ground of all God's creation on both sides of the river, and you go over on the other side you will find American deserters, and on this side it is Mexican deserters, and all sorts of criminals collect there. They keep jumping the river.

Q. State whether or not there is a good deal of smuggling along that part of the river to which you have referred.—A. There is. The Texas rangers are busy all the time.

Q. Who are busy?—A. The Texas rangers. Nearly the whole force of Texas rangers are employed along that river.

Q. Are there any United States officials?—A. Yes, sir.

Q. Mounted customs officers along there?—A. There is.

Q. Do all those people go armed generally?—A. They do.

Q. Do the rangers go armed?—A. Yes, sir.

Q. How are they armed?—A. With a revolver, some kind of heavy gun.

Q. Do they have any guns—any rifles?—A. I have never seen them have carbines or rifles.

Q. Do they wear a uniform, the Texas rangers?—A. I believe they do. I will not be certain.

Q. Can you tell us what it is, if you can recall it now?—A. I think I have seen some of them in khaki and some in blue.

Q. Well, if you do not recollect—A. I would not be certain as to that.

Q. State whether or not during your stay at Fort Brown you heard of any shooting scrapes of any kind in the nighttime in the city or round about the fort there anywhere.—A. Yes, sir.

Q. Well, how often was there a shooting scrape of some kind or other around in that locality?—A. Well, I could not say as to that, Senator; I do not know. I have only heard what the soldiers say.

Q. Tell us about the population of Brownsville. First, how large is it?—A. I believe it has a population of three or four thousand; that is my understanding.

Q. It has been stated that it had a claimed population of 8,000.—A. It may be, Senator. I would not be certain as to that.

Q. What class of people predominate there as to nationality?—A. Mexicans.

Q. About what proportion of that population is Mexican?—A. About three-fourths, perhaps more, and part of them there are Spaniards.

Q. Lots of Spaniards?—A. Lots of Spaniards.

Q. What is the color of those Mexicans?—Are they, some of them, pretty dark or not?—A. Yes, sir; some of them are very dark. Of course there is a difference, according to the amount of Spanish blood there is in them. Some are quite light and some are very dark.

Senator FORAKER. I believe that is all I want to ask the witness.

By Senator WARNER:

Q. You were at Brownsville how long in all?—A. Well, I went there first about the 1st of September, 1903. I stayed there the next summer. I think it was in June or July we moved to Fort Ringgold.

Q. That is, June or July of 1904?—A. Yes, sir; following.

Q. How were the police uniformed then?—A. They wore khaki, and some different. There was no particular uniform. Some wore khaki and some—

Q. Blue uniform?—A. I think there was some blue.

Q. Did it depend upon the season of the year?—A. Well, now, I could not say as to that. It seemed pretty near the same the year around in that country. There is very little difference.

Q. The same uniform the year round. That was your first stay, up to 1904?—A. Yes, sir.

Q. And then when did you come back?—A. Went back last year, in June sometime—no; the last of May.

Q. 1906?—A. Yes, sir.

Q. Did you find the policemen uniformed the same then as you found them it 1903 or 1904?—A. Well, I did not see any difference.

Q. You say you found them the same?—A. I think so; yes, sir.

Q. When you were at Brownsville you were treated respectfully, were you?—A. I was. I never had any trouble with anybody in my life, myself.

Q. You found no trouble in going around?—A. I did not.

Q. Night or day?—A. Night or day, myself.

Q. Never was molested by a policeman or anyone else?—A. No, sir.

Q. Never insulted?—A. No, sir.

Q. Never an unkind word said to you?—A. Never to me.

Q. And you were in the town a great deal, were you not, doing your hauling, necessarily?—A. Oh, yes.

Q. All parts of the town?—A. I was, sir.

Q. And all times of the day and night, nearly?—A. Well, I was not very much out at night. I was some at night.

Q. And you received uniformly courteous treatment at the hands of the people of Brownsville?—A. As far as I am concerned, toward me they did.

Q. Did you ever see any soldier mistreated?—A. Well, I don't know whether he was mistreated. I have seen some that were arrested, and they claimed they were mistreated. I don't know whether they were or not.

Q. Did you see the arrest made?—A. No, sir.

Q. Do you know whether the party was drunk or disorderly?—A. Well, I have reason to believe that some of them were drunk. I do not know it.

Q. Mr. West, you say you do not drink yourself?—A. No, sir.

Q. But it is an unfortunate fact, is it not, Mr. West, that soldiers on pay day, a good many of them, do drink?—A. Well, that is a very mild statement. You may say nine-tenths of them drink.

Q. I want to get it mild.—A. Nine-tenths of them drink.

Q. Do you think that many?—A. Yes, sir; all of that many.

Q. And a great many drink to excess, of course?—A. Yes, sir; three-fourths of them drink to excess. That is one fault of the Army.

Q. And that was not peculiar to the Twenty-sixth alone, any more than it was to other regiments that you have seen?—A. No, sir; I might say nine-tenths of the convictions in the guardhouse are caused by liquor.

Q. I want you to be conservative in your statement.—A. That is conservative. I am positive of that.

Q. When you speak of nine-tenths of the convictions in the guardhouse being caused by whisky, how are those convictions, quite frequent?—A. Yes, sir; that is, summary courts for missing retreat or missing a call or something like that.

Q. That is caused by drink, you say?—A. Yes, sir; invariably it is caused by drinking.

Q. Take it when pay day comes, and then following for a time until the money is gotten rid of, how are the arrests, more or less in posts?—A. I never saw an officer yet but what dreaded pay day.

Q. The guardhouse gets pretty full, does it?—A. Yes, sir.

Q. That is your observation, you say?—A. Yes, sir; that is my observation that it is a fact.

Q. Now, this dumping ground in Texas, from Fort. Brown to Laredo, I think you said 400 miles—A. It is about 240 or 250 miles.

Q. I understood you to say 400.—A. If I did—

Senator FORAKER. I think you will find that he said 240 miles.

By Senator WARNER:

Q. I do not mean to suggest that you stated anything that is not correct.—A. I can only answer what I know myself. I can not answer for anybody else.

Q. Were you much on the Mexican side of the river?—A. No, sir.

Q. Were you ever over on the Mexican side?—A. I was.

Q. How long were you over on the Mexican side?—A. Never very long; once or twice at Ringgold I took an officer over. We ferried across—took him over to a little station about 10 or 12 miles.

Q. How long were you there then?—A. Oh, about half a day.

Q. At that one place. Were you ever over on that side of the river any more?—A. No; not on that side of the river.

Q. That was the only time that you were on the Mexican side in that stretch of 240 miles, or whatever it was?—A. Yes, sir.

Q. And that is all you know about that personally?—A. That is all I know of the Mexican side.

Q. And that is all you know about it being the dumping ground?—A. Well, no more than I know that our boys—we had 18 from our company deserted and went over there the first year. They went to Monterey. We heard of their being there.

Q. That would be very natural, if they were up on the Canadian line, to go across the line?—A. Well, yes, sir.

Q. Just the same?—A. It certainly is so in any border country.

Q. The people of Brownsville, you say, in your opinion, were about three or four thousand in number—you say that was the population of Brownsville?—A. I estimated it at that. I don't say it is correct.

Q. I am getting your judgment.—A. I would suppose that.

Q. And the remarks you heard made about these troops were up in this gambling house over Weller's saloon?—A. Yes, sir. I have heard it on the streets.

Q. But what you have heard on the streets was simply regret that the colored troops were coming there?—A. Yes, sir.

Q. And regretting that the Twenty-sixth were going away?—A. Yes, sir.

Q. You heard no hostile remarks made at all?—A. No more than what I have mentioned, sir.

Q. This little boy of 10 or 12?—A. He made nothing more than he just made that expression, and kind of grinned at me. Whether he meant it or not, I don't know.

Q. He did not look very vicious when he made the remark?—A. No.

Q. He just laughed and said he was going to sell them to kill niggers?—A. That is all. I thought nothing of it.

Q. And he had how many cartridges in his hat?—A. Well, now, Senator, I could not answer that.

Q. Well, I know, but approximately—a dozen or two dozen?—A. Oh, there might have been 25 or 30, might have been 40, I would not say; might not have been that many.

Q. A pretty good hatfull?—A. No; the hat was not near full; just a little hat.

Q. You know I did not see it. I want to get at it, as to what you saw. Would you say a dozen or two dozen, or whatever it was—your own estimate?—A. There might have been two or three dozen. I would not say there was any more or any less.

Q. Did it strike you as very singular that this little boy should have so many cartridges?—A. Not at all. That is a common thing to see them have them.

Q. To see them take cartridges out of there?—A. They often come and ask the soldiers for a cartridge for a keepsake, and they give it to them.

Senator FOSTER. No trouble to get cartridges, then?

By Senator WARNER:

Q. No trouble to get cartridges in that way?—A. Well, they could get a few; but if we lived up to the regulations, they are very strict.

Q. Oh, I know. If we lived up to the golden rule, it would be pretty strict, but we do not do it always. But I am talking of what the actual practice was, Mr. West.—A. Well, the practice is always they keep tab on our cartridges. I know I never disposed of any. I always returned exactly what I got.

Q. I am not assuming that you did, but I am asking; you say among the command it was an easy matter to get cartridges?—A. To get a few; could always get a few.

Q. This boy seemed to have had a good many. I just want to get at it.—A. Well, let me explain that any troops leaving that way, most of the soldiers will perhaps have a pasteboard box or a box with cleaning things for their guns—rags and brush and oil and stuff—and maybe two or three loose cartridges, and when they leave they just leave the box and everything.

Q. Leave the box that way, and the cartridges?—A. Yes, sir; never think anything about it.

Q. So each soldier leaving that way, where there are thirty or forty soldiers, there might be a hundred or more cartridges left?—A. There might possibly be and there might not. Where there were a lot of soldiers just even a few would mount up to quite a lot sometimes.

Q. And driving along there you saw some khaki clothing that had been left?—A. Yes, sir.

Q. And did you notice cartridges there, too?—A. I would not say whether there were cartridges there.

Q. As I understand, you did not go into the barracks at all?—A. No, sir; I did not investigate there. I was busy teaming and getting the regiment off.

Q. You have been with the Twenty-sixth for a considerable time?—A. Yes, sir; six years.

Q. You regard that regiment as a pretty well organized and governed regiment, don't you, as far as discipline and rules are concerned?—A. I think it is as good as any regiment.

Q. As good as any regiment?—A. Yes, sir.

Q. You were on extra duty as a teamster?—A. Yes, sir.

Q. And were not much about the barracks?—A. No, sir; I was not.

Q. Now, these bandoliers, that you did not know what they were called at the time, they were not issued to you until they were issued with the Springfield rifle, as I understand—Springfield ammunition?—A. No, sir; they were not.

Senator FOSTER. He said they were not issued with the Springfield rifle.

Q. Were the bandoliers issued with the Springfield rifle?—A. I never saw them issued to the soldiers. I know they were issued cartridges. They only had generally 10 or 20, to do guard duty, and they were ripped open and handed out in clips to the soldiers, and they threw the bandoliers away.

Q. That was by the ordnance officer of the company?—A. Yes, sir; by the quartermaster.

Q. The quartermaster-sergeant?—A. Yes, sir.

Q. Because each company now has a quartermaster-sergeant?—A. Yes, sir.

Q. And he is the ordnance officer of the company?—A. Yes, sir; he looks after the rations and the company property.

Q. Then you have an ordnance officer of the regiment or the battalion?—A. Yes, sir; of the regiment.

Q. So in the issues of those bandoliers, then, so far as your observation went, the quartermaster-sergeant took no care of them—just threw them away?—A. I understand they did.

Q. I am getting at what you saw.—A. Yes, sir; I saw them scattered around—thrown away.

Q. You did not return those bandoliers at all?—A. No, sir.

Q. And you saw quite a number of them on the back porches of those different barracks?—A. Yes, sir.

Q. During your time?—A. Yes, sir.

Q. And you say it did not create any surprise at the reply you got from the boy; no surprise at the fact that he had this number of cartridges, taking them out?—A. It did not to me; not at all, sir.

Q. You just said to him pleasantly, "Well, my boy, what are you going to do with those?"—A. That is all—"kid."

Q. And the kid laughed?—A. The boys knew me, and they always called me "Dad." That was the name I went by.

By Senator FOSTER:

Q. The Spanish boys called you "Dad?"—A. Yes, sir; they knew me. I had teamed around there and had never abused them.

Q. They were about as serious when they called you "Dad" as he was when he said he was going to sell those to kill niggers?—A. Soldiers always have names to call one another by.

By Senator FORAKER:

Q. Did you let the boys ride in your wagon?—A. They have ridden in my wagon. To carry regular passengers is forbidden.

By Senator WARNER:

Q. But when a boy got on the back of your wagon you didn't whip them off with a whip?—A. No, sir; they always treated me right personally myself; I never had any trouble.

Q. Just one other question or two, Sergeant, about cleaning your gun. Kerosene, you say, is the best and most expeditious thing?—A. That has been my experience; but I am speaking for nobody else. I do it because it is easily gotten and can be carried in a bottle when I go out on the target range.

Q. It is easily done, so far as your experience goes, and with better effect, and more quickly done?—A. It is so, from my idea. I got it when I was working in machinery, in cutting rust and dirt. I used it there, and I thought I would try it here, and it worked fine, and I used it.

Q. You spoke of having a brush. That is a thong brush?—A. It is just like the thong brush, only it is heavier and longer.

Q. You buy that at the commissary?—A. At the canteen.

Q. You said the commissary.—A. The canteen.

Q. And they were kept there for sale; any of the soldiers could buy them?—A. Well, they could at any post I have been in.

Q. I am speaking of Brownsville; just your own post. Those cost how much?—A. I think 25 cents.

Q. They did the work pretty thoroughly?—A. Yes, sir; by running them up and down quite vigorously and with that oil.

Q. And as far as cleaning the barrel of the gun, where it had been shot four or five times, and within a few hours, before the powder had got set, as I think they call it—A. That is it.

Q. I do not know as I use the right expression. Now, running that up and down the barrel, as far as the barrel was concerned, you could clean it in a very few minutes, could you not?—A. In a short time, so that if you looked through it it would look bright, but if you let it stand it will turn blue, turn dark.

Q. That is, if it is not thoroughly cleaned?—A. No matter how thoroughly you clean it, you have to clean it several times in twenty-four or thirty-six hours before it will stay bright. That blue color comes back on the barrel.

Q. But the powder is all gone?—A. The powder may be all gone; yes, sir.

Q. But it is that blue color, instead of having a bright polished surface?—A. Yes, sir.

Q. Do many of the soldiers, to your knowledge, buy this brush because it is an expeditious way of doing it?—A. They most all of them do in my company, and what do not have them used to borrow mine.

Q. Use the brush and the kerosene?—A. Yes, sir.

Q. You had no bandoliers with the Krag?—A. No, sir.

Q. How long before leaving Brownsville was it that the Springfield rifles had been issued to that battalion?—A. I could not say.

Q. Approximately?—A. I can only answer for my Company I. We had them issued to us just before we left Ringgold. We had finished our target practice.

Q. Pardon me; when was it you left Ringgold?—A. It was the last of May; I can not give you the date.

Q. In 1906?—A. Yes, sir.

Q. So when you went back to Brownsville, 1906, you had the Springfield rifles?—A. Yes, sir.

Q. And you had them from that time on until you left—the 5th of July?—A. Yes, sir; we did.

Senator WARNER. I think that is all I want to ask.

By Senator OVERMAN:

Q. Did you load your regiment's property and unload the property of the Twenty-fifth?—A. Yes, sir; I had charge of that.

Q. Did you take property out of the magazine house of the Twenty-sixth and put it on board the car?—A. No, sir; we had no such property to load. It was only just company property. That belonged to the Quartermaster's Department. That was shipped afterwards.

Q. You did not load that?—A. No, sir; we were ordered to the maneuvers. I think we left the 28th day of August—the detachment, you understand.

By Senator FORAKER:

Q. The 28th day of what?—A. August, I think we left there—that is, the detachment.

By Senator FOSTER:

Q. You left where?—A. Fort Brown—August or July.

By Senator FORAKER:

Q. The evidence shows that the black battalion arrived there on the 28th of July.—A. The 28th of July; that is right. I know we mustered the last day of the month at Austin.

By Senator FOSTER:

Q. Mr. West, did I understand you to say that there is a strip of territory 100 miles broad and 250 miles long that is used as a dumping ground for lawless characters?—A. I don't say that it is used for that, but they seem to congregate there; from what cause I don't know.

Q. Will you state what towns and cities are within that strip of territory?—A. Well, there is Brownsville; that is the largest there is, unless it is Laredo and Ringgold. Then, outside of that there is nothing but small, little villages, barrios, or ranches.

Q. None east?—A. On the east when you get out, as you go out about 50 or 75 miles, then the towns begin to get a little larger, toward the center of Texas.

Q. Will you name the towns 100 miles east of the border?—A. No; I could not.

Q. The towns which you have mentioned are border towns entirely?—A. Mostly border towns; yes, sir.

Q. Will you name any towns 50 miles east of this strip of territory?

Senator WARNER. That is, from the Rio Grande.

By Senator FOSTER:

Q. From the Rio Grande.—A. From the Rio Grande, I understand you. Corpus Christi—that is a large town, that is quite a city.

Q. Is that a dumping ground for lawless characters?—A. Corpus Christi is quite a nice city.

Q. Just answer yes or no, and then you can explain it.—A. No, sir; it is not.

Q. Now, name another town.—A. Well, I could not name the towns up that far back.

Q. Name a village.—A. They go by ranches more than anything else.

Q. Name some of the ranches.—A. I could not mention those; they are all Mexican names, mostly. I was out two months with Lieutenant Palmer, all over that country, but I could not remember the ranches or little towns of 100 or 200 or 300 population.

Q. Then the only towns that you can now recall in this stretch of territory, 100 miles broad and 250 miles long, are Corpus Christi, Fort Brown, Laredo, and what is the name of the other one?—A. Ringgold.

Q. Those are the only ones that you can at present recall, either villages, towns, ranches, or cities?—A. Well, that is by name.

Q. By name?—A. By name. There is Hidalgo; that is the county seat of Hidalgo County.

Q. What kind of a town is that?—A. It is quite a nice thriving little town.

Q. What is the difference in the character of the population in Brownsville and Laredo and Ringgold—the same class of people?—
A. As far as I observed they were.

Q. What is the population of Laredo?—A. I could not say, but I believe it is larger than Brownsville, considerably.

Q. And Ringgold?—A. Ringgold; I believe they claim 2,000.

Q. A mixed population?—A. Yes, sir; a mixed population.

Q. What proportion of whites and what proportion of Mexicans?—A. There are three-fourths Mexicans; very few white people, especially white Americans.

Q. Do you know a single fugitive from justice in the town of Brownsville, either from the United States or from Mexico?—A. I have had them pointed out to me, several of them, but I don't know them by name.

Q. Can you name one of them?—A. No, sir; I could not.

Q. Who pointed them out to you?—A. Why, some of the soldiers pointed them out to me; and let me see, I believe there was one of the policemen. I know they used to come into camp there, into the post, from the other side of the river.

Q. Fugitives from justice?—A. Yes, sir; I did not know them myself, personally.

Q. What crime had they committed?—A. Now, I could not answer that, sir.

Q. How did you know they were fugitives from justice?—A. Nothing more than only what I heard.

Q. Whom did you hear it from?—A. Well, I could not mention names. To remember all you hear and who said it would take considerable time. I could not mention no names.

Q. Did you ever know of any American who had refuged to that town of Brownsville, fleeing from justice?—A. No more than hear-say, sir.

Q. How many did you hear of?—A. I could not tell you how many. I could not tell you that at all.

Q. Or who told you that they were?—A. Well, it just seemed to be common talk; that is all I can say as far as regards that. I know quite a number that deserted, that went to the other side.

Q. I am speaking of this side.—A. I know.

Q. I am speaking of Brownsville. You found the people of that town law-abiding, did you not?—A. Well, I never had any trouble personally myself—never.

Q. The laws were enforced, were they not, so far as you know?—
A. As far as I knew they were.

Q. Enforced both against the Americans and the Mexicans so far as you know?—A. As far as I know, sir.

Q. Did you ever hear any complaint of lack of proper administration of the laws?—A. Yes, sir; I have heard—I don't know whether it is correct or not.

Q. What particular instance can you give of a lack of a proper administration of the laws by the officers of the law?—A. Well, now, I don't know; only what I have heard them speak of in the post—that they were prejudiced, that they did not enforce the law equally with the citizens and with the soldiers.

Q. I am speaking of the law being enforced against the citizens

first.—A. Well, as far as the citizens were concerned, I don't know that there was any difference.

Q. You don't know of any instance of the lack of administration of the law so far as the citizens were concerned?—A. No, sir; I do not.

Q. Now, did you know of any lack of administration of the law so far as the soldiers were concerned, of your own knowledge?—A. No, sir; not of my own knowledge.

Q. You said you were there for a number of years and went around all through the town?—A. No, sir; not a number of years. I have been a little over three years up and down Ringgold and that place together.

Q. You had no difficulty at any place or with anyone?—A. Never in my life.

Q. Being a good, quiet, sober soldier, you went where you chose and had no difficulty or trouble with officers or citizens?—A. I never did. I have been out all times of night.

Q. Did you ever know of a soldier who conducted himself in an orderly manner and in a lawful way having any difficulty?—A. No, sir.

Q. With anyone in Brownsville?—A. No, sir.

Q. The people had no prejudice, had they, against you wherever you went?—A. If they did, I did not know of it.

Q. No evidence of prejudice was ever shown to you by reason of your being a soldier?—A. Well, personally I can not say that there was.

Q. The Americans in that town were men of good business standing, were they not?—A. Well, what few Americans were there, I always thought they were.

Q. Good men?—A. Why, I always supposed they were. They were bankers and two or three merchants, a doctor or two.

Q. Bankers?—A. Yes, sir; I think there were two banks there.

Q. Doctors and lawyers?—A. Yes, sir.

Q. And judges?—A. There were two or three judges.

Q. Merchants?—A. Yes, sir.

Q. Then you know nothing, of your own knowledge, of the prejudice, as you call it, or the ill feeling, as you term it, of the citizens against the soldiers?—A. Well, no more than just what remarks I have heard.

Q. In this conversation which you have stated, and in which you heard some remarks made about the coming of the soldiers and the getting of them away from there, did they say how they expected to get the soldiers away from there?—A. No, sir.

Q. Will you name some of the people who made that statement?—A. I could not.

Q. Can not name a single one?—A. No, sir.

Q. Where was this statement made?—A. Oh, I heard it several times along the street and in those two particular gambling houses over Crixell's and Weller's.

Q. If you heard a statement of that kind in a gambling house and did not know the character of the men that made the statement, would you permit that statement to be made the basis of a charge against the people of that town?—A. I certainly would not; not on that statement alone; no sir.

Q. When you met that little boy that morning, with these cartridges, you were going out of the barracks, I understood.—A. I was coming in.

Q. You were coming in and he was going out of the barracks?—A. Yes, sir.

Senator FORAKER. Going out of the reservation.

By Senator FOSTER:

Q. Going out of the reservation. You addressed him in some such terms as "Kid, where did you get those?"—A. No; I said "Kid, what are you going to do with those?"

Q. And he answered back, "Dad, I am going to take them to town and sell them." Is that what he said?—A. Yes, sir.

Senator FORAKER. Are you trying to quote the answer he made a while ago?

Q. Substantially. State what he did say.—A. "Going to take them down town and sell them to kill niggers with." And he kind of laughed at me.

Q. Was that the time he called you "Dad?"—A. Yes, sir.

Q. That is what I understood.—A. Yes, sir.

Q. And you had only been there about a year or two?—A. At Brown?

Q. Yes.—A. That last time I had only been there about a month; this last time.

Q. I understand that was a common term that the young boys used down there, the children used in that place toward you?—A. Yes, sir; soldiers have all nicknames of some form or another.

Q. This was a Mexican boy?—A. Yes, sir.

Q. Do the Mexican children down there, as a rule, speak English?—A. Some; some speak very good English.

Q. As a rule, do the Mexicans themselves speak English?—A. No; not if they can avoid it. They generally speak Mex. Some of them, though, can talk very good English.

Q. You knew these policemen down there, did you?—A. Only by sight.

Q. Never had spoken to them?—A. I never had occasion to meet them, and never had much to do with them at all.

Q. Isn't it one of the regulations of the Army that a soldier is held to a strict accountability for the number of cartridges he receives, and that he must account for them?—A. Yes, sir; that is the regulation as to everything we have, even to our clothing.

Q. Is it not also a regulation of the Army that none of the property of the United States Government shall be used or taken possession of by any of the citizens?—A. Yes, sir.

Q. You saw, then, about 35 or 40 cartridges in the hat of this boy?—A. I should judge there were about that.

Q. Where could that boy, in your judgment, have gotten those cartridges from?—A. I thought at the time he just simply picked them up, or some of the soldiers had given them to him. It was so customary that I never thought any more about it. It seemed as though there are always children and a certain number of hangers-on around the post.

Q. You say you thought the boy had picked them up, or some of the soldiers had given them to him?—A. Yes, sir; that is what I thought.

Q. Have you ever seen that done before?—A. Yes, sir; it is done at every post when they move. Whatever they do not need is cast off.

Q. Cartridges, too?—A. Whatever is left in these boxes; they do not bother to carry them with them.

Q. Do I understand that this boy could have gotten these cartridges—could have gone into these barracks and gotten these cartridges?—A. I didn't think he went into the barracks; I thought he got them off the back porches, where they were dumping company property that was left.

Q. Were there not guards there detailed?—A. No, sir; no guards.

Q. Ten from each company detailed to take care of those barracks?—A. No, sir; nothing only the quartermaster of each company—

Q. And 10 men?—A. Yes, sir; I was one of the 10, helping the quartermaster as teamster.

Q. Would any one of these men on duty there permit a boy or anyone else to go into the barracks and pick up cast-off clothing and pick up shells or bandoliers or things of that kind?—A. No; perhaps they would just pick up stuff they did not think was of any account and give it to them.

Q. Give it to them?—A. To get rid of it. They generally threw it into the ash barrel, and they would save that trouble by giving it to the Mexicans to take away.

Q. You said, I believe, that you heard quite a number of shots there during the night on different occasions?—A. I have heard shots.

Q. Were they straggling shots or volleys?—A. Oh, no; just now and then a shot once in a while.

Q. Are you not liable to hear that in almost any town?—A. I have heard it when I was in Fort Sam Houston; not a week ago I heard shots.

Q. Mr. West, if a party should take your rifle and discharge it, say, three or four or five or six times, how long would it take you, with your thong brush, to clean the barrel of that rifle with kerosene so that it would pass inspection?—A. I think I could do it in fifteen minutes.

Q. Would it take fifteen minutes just to clean the barrel out?—A. Yes, sir.

Q. Now, is it not a fact that you and the rest of the soldiers had their own cleaning material with them in their quarters?—A. Yes, sir.

Q. Every man had his little box?—A. Supposed to; yes, sir.

Q. In which he was supposed to have his cleaning materials?—A. Kept it separate, to keep it from mixing up, so that they could find it readily.

Q. And he could clean his gun any time he felt like it, when he had his gun, could he not?—A. Yes, sir; certainly.

Q. That is the usual practice of soldiers, is it not?—A. Yes, sir; keep it ready. We don't know when we may be called out for inspection, at any time, or for guard duty.

Q. And you have those materials all at hand in your quarters?—A. Yes, sir.

Q. When you say they have the materials necessary for cleaning a gun on hand in the quarters, what do I understand?—A. Well, that brush, oil, and rags and brushes, and whatever other things are deemed necessary to use.

Q. What would you have for cleaning the barrel?—A. For cleaning the barrel and cleaning the outside, cleaning rags.

Q. And for the inside?—A. Clean it out with a brush, and then they have what we call a pull-through—put a cloth or something on the end and wipe the barrel out clean.

Q. They are the materials you would use in cleaning out your gun for inspection?—A. Yes, sir.

Q. Are those same materials used for cleaning out a gun for inspection after the gun has been fired?—A. I always used the same.

Q. Then, having those materials on hand in his quarters, it is not necessary for a soldier to go and get one of those rods or rags from anybody else to clean his gun?—A. Each one is supposed to have his own. There are lots of them that do not. There are lots of careless men in the Army that hardly have anything, but borrow.

Q. Well, good soldiers generally have them?—A. Good, careful soldiers; yes, sir.

Q. Did you yourself see any cartridges lying around after the Twenty-sixth left?—A. Yes, sir.

Q. After the Twenty-sixth left you saw cartridges lying around the barracks?—A. Yes, sir. You are pretty apt to see them in any post—a few scattered around. They are liable to; it is carelessness, though. There are always a few men get careless and leave things loose.

By Senator WARNER:

Q. One other question, Mr. West. You said something about using this brush, and then, as I understood, a rag and a pull-through?—A. No; we have a pull-through besides that—a pull-through with a clean rag that fits tight, to wipe the oil all off.

Q. What is that pull-through?—A. Why, it is a strong cord with a metallic point to it with a slot in it like a needle.

Q. Like the eye of a needle; and you put the rag in?—A. Yes, sir.

Q. And that fits in the barrel, and you pull it through?—A. To wipe the barrel out.

Q. And that is supposed to do it thoroughly?—A. It is, after you have rubbed it thoroughly with the brush; loosened it up. That is what it is supposed to do.

By Senator FORAKER:

Q. With the Krag-Jørgensen you had a rod in the butt of the gun, didn't you?—A. The Krag; yes, sir.

Q. That rod was in sections?—A. That rod was in sections.

Q. How many?—A. There were three sections to each gun, but I always had five.

Q. You had to take it out and screw it together?—A. Screwed it together in sections, about 8 or 10 inches long.

Q. And with this new Springfield rifle you are furnished with a different kind of cleaning rod, are you not?—A. We have no cleaning rod at all.

Q. Nothing that goes with the rifle?—A. No, sir.

Q. Each company, however, is furnished with a number of brass cleaning rods?—A. Well, they may be; yes; I have seen many of those, I believe, but I still have the same old rods that I had around the barracks that I picked up, and I have kept them.

Q. You use them instead of using this new kind?—A. Yes, sir.

Q. How do you carry those when you go out?—A. They are in joints, and I just put them in my haversack.

Q. That is to say, you still use the old Krag-Jørgensen rod?—A. I do, sir.

Q. Which you make up by putting the sections together?—A. I always like to have my own things handy. I never depend upon anybody else.

Q. You were asked whether you could name any fugitive from justice in Brownsville, and you said something about some policeman whose name you could not recall, who had, you understood, been a bad man.

Senator WARNER. I have not so understood him to say.

A. No; it was a policeman who told me.

Senator FORAKER. That is all.

By Senator WARNER:

Q. This rod that you had not spoken of, this Krag-Jørgensen rod, you kept that after you got your Springfield?—A. I returned the three joints that came with the gun. We are accountable for everything, you understand, but when I see anything around loose that is of any advantage, I always pick them up; I never throw them away myself, and I kept five rods with me. I only returned what I was accountable for.

Q. Certainly; I see; you had an opportunity to appropriate five of the rods?—A. I certainly could.

Q. And you say you did?—A. Yes, sir.

Q. These were the rods that you used preferably to anything for cleaning a gun?—A. Yes, sir.

Q. And those you just carry in your haversack?—A. Yes, sir.

Q. You could stick them in your pocket?—A. Yes, sir.

Q. They are very convenient that way?—A. Yes, sir.

Senator WARNER. That is all.

By Senator FORAKER:

Q. You say there were 18 deserters from your company in one year?—A. I think that was the number.

Q. Was there a like number of deserters from each of the other companies, you think?—A. There were quite a good many; I would not say how many. They desert, some for one cause and some for another. Some have one complaint and some have another; you can not suit men.

Q. When these soldiers desert, do they sometimes carry away ammunition with them?—A. Well, I can not answer as to that.

Q. I want to ask you whether or not there are any tailors in Brownsville who make khaki suits and did make them in 1906 when you were there, if you know?—A. Yes, sir.

Q. Were khaki suits worn by the citizens as well as the police force?—A. I have seen them wear them.

Senator FORAKER. That is all.

Senator WARNER. That is all, Mr. West.

TESTIMONY OF CORPL. JOHN E. RIMMEL, U. S. ARMY.

Corpl. JOHN E. RIMMEL, U. S. Army, being first duly sworn, testified as follows:

By Senator FORAKER:

- Q. Please state your name in full.—A. John E. Rimmel.
- Q. Do you belong to the Twenty-sixth Infantry?—A. Yes, sir.
- Q. Where is that stationed now?—A. Fort Sam Houston, Tex.
- Q. What company do you belong to?—A. Company M.
- Q. Were you with your company at Fort Brown in the summer of 1906 until they left there?—A. Yes, sir.
- Q. Can you tell us on what day they left there?—A. They left there on the 5th day of July.
- Q. Did you hold or do you now hold any official position in your company?—A. Noncommissioned officer.
- Q. What rank?—A. Corporal.
- Q. You are a corporal in Company M?—A. In Company M.
- Q. Did you hold any official position while you were at Fort Brown?—A. I was company cook.
- Q. Who was associated with you at that time as company cook?—A. Private Fisher.
- Q. State whether or not you had any conversation with anybody at Brownsville, after you heard that you were to leave there and the colored troops were to come there, in regard to the same, if you can recall.—A. Yes, sir. I was down town one evening and went into Mr. Weller's place. He was in the liquor business, the saloon business, and he was speaking about the colored troops coming there.
- Q. Where did he have his place of business?—A. About the middle of the block, below the Miller Hotel on Elizabeth street.
- Q. Was that on the right hand or the left hand side of the street as you went up Elizabeth street from the gate?—A. On the right hand side, sir.
- Q. This was a saloon, was it?—A. Yes, sir.
- Q. Well, what did you hear in there?—A. I asked him how he liked the change, and he said he did not like it at all.
- Q. What further conversation was had on that subject? What did he say about it?—A. I told him he could not very well help himself, that they were ordered there, that the order came in there that day, and he said: "Well, I don't think they will be here very long; we will get rid of them some way."
- Q. Did he indicate how they would get rid of them?—A. No, sir.
- Q. Did you ever have any other conversation with him on that subject?—A. Not with him, sir.
- Q. Did you have any conversation with anybody else while you were at Brownsville?—A. Yes, sir.
- Q. Of that character?—A. Yes, sir.
- Q. With whom?—A. Mr. Moore, the man who runs the Miller Hotel.
- Q. Where did you have a talk with him?—A. In the company kitchen.
- Q. In the post?—A. Yes, sir.
- Q. What barracks did you occupy?—A. The second barracks, the first on the left as you go in the gate.

Q. Where is the kitchen of the barracks—at which end?—A. The kitchen is on the near end.

Q. Near to the gate?—A. To the sidewalk.

Q. You were in there, and what was Mr. Moore doing?—A. He came in there for the purpose of buying some dried fruit, or whatever extra stuff we had to sell.

Q. How did you happen to have any stuff for sale?—A. Well, sir, it is the habit of companies, when they have surplus stuff like that, to sell it and buy other stuff with the money; buy vegetables, and the like of that.

Q. They sell whatever they can and get the money and buy what they want?—A. Yes, sir.

By Senator WARNER:

Q. That is, if they do not use the entire ration the surplus belongs to them?—A. Yes, sir.

By the CHAIRMAN:

Q. That is your company fund?—A. Yes, sir.

By Senator FORAKER:

Q. He came there to see if you had any dried fruit?—A. Yes, sir.

Q. What occurred?—A. We got to talking about the change, and he said he didn't like a nigger anyway, and he said they would not be very long getting rid of them.

Q. What way did he say they would resort to to get rid of them, if he said anything at all on that subject?—A. He did not state what way they intended to get rid of them; but he said they would get rid of them some way.

Q. Did you hear any remarks of anybody else of this general character?—A. No, sir.

Q. Who, if anybody else, was present when he made that remark?—A. Private Fisher, the other cook.

Q. He was present and he heard the remark, did he?—A. Yes, sir.

Q. And he is here, is he?—A. Yes, sir.

Q. State whether or not you had an opportunity to observe, and did observe, what the feeling was in Brownsville with respect to the colored troops coming there—whether it was one of friendliness or unfriendliness.—A. From what experience I had it was not very friendly.

Q. What kind of experience did the men of your company have down there; did they get along well or did they have a good deal of trouble?—A. Some of them had a very rough experience. There were some arrests made down there, and they were pretty badly beaten up over the head with six-shooters.

Q. What do you mean by being beaten over the head with a six-shooter?—A. They would take a six-shooter out and hammer them over the head with it.

Q. Was that a common occurrence down there in connection with the arrests?—A. It occurred several times while I was there.

Q. Can you give us the names of some of the men of your company or battalion who were beaten over the head with these six-shooters?—A. Yes, sir; there was a man by the name of Cyzyack, a private, and another man by the name of Schupolsky; he was a sergeant. A ranger beat him.

Senator WARNER. That is the same one that has been testified about.

By Senator FORAKER:

Q. How many others do you remember?—A. Those are the only ones I remember being beaten over the head.

Q. Now, Corporal, how long have you been in the service?—A. Going on nineteen years, sir.

Q. When did you first enlist?—A. I enlisted in 1887.

Q. In what command?—A. In Company G, Fifth Infantry.

Q. How long did you serve in that organization?—A. Five years in Company G and eight years in Company D of the Fifth.

Q. Eight and five—that makes thirteen years?—A. Yes, sir.

Q. And then what next?—A. And three years in L Company of the Twenty-third.

Q. And then what?—A. And the balance of the time in the Twenty-sixth Infantry.

Q. Where all have you served during those nineteen years?—A. I have served in Fort Ringgold; in Fort Keogh, Mont.; Fort Douglas, Utah; Atlanta, Ga.; Plattsburg, N. Y.; and Mount Vernon, Ala., and Brownsville.

Q. Were you in Cuba or the Philippines?—A. Yes, sir.

Q. You served in both countries?—A. Yes, sir; both places.

Q. Were you in any battles in either of those countries?—A. Yes, sir; I was in several fights over in the Philippine Islands, but not in Cuba.

Senator FORAKER. This is the time for adjourning, Corporal, and you will have to be back here to-morrow morning at 11 o'clock.

Thereupon (at 4 o'clock p. m.) the committee adjourned until Friday, March 15, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, March 15, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Hemenway, Bulkeley, Warner, Foster, Overman, and Frazier.

TESTIMONY OF CORPL. JOHN E. RIMMEL, U. S. ARMY—Continued.

Corpl. JOHN E. RIMMEL, U. S. Army, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. When we adjourned last evening I was just asking you, Corporal, about your service in the Philippines and in Cuba, and in answer to my question you stated that you had served in both those countries, and that you had been in several fights, as you expressed it, over in the Philippine Islands, but none in Cuba.—A. Yes, sir.

Q. What regiment were you serving with in Cuba?—A. In Cuba I was in the Fifth Infantry.

Q. And in the Philippine Islands you were in some engagements?—A. Yes, sir.

Q. What regiments were you in there?—A. Both the Fifth and the Twenty-third.

Q. What engagements were you in, if you can tell?—A. I was in the fight at Batatio, and one in Luzon, and another one, I can not remember the name now. They are Filipino names and are very hard to remember. I was in two fights there with the Fifth Infantry.

Q. When did you become the cook of the company and how long did you serve on that extra duty—or is that extra duty?—A. Well, sir, it is a company appointment. You get the pay of a sergeant.

Q. How long did you serve in that way?—A. I was first cook two or three different times; would be in so long and then relieved for a rest. I was in the first time, I think, about five or six months.

Q. Were you acting as cook all the while you were at Fort Brown?—A. No, sir; not all the time.

Q. Do you remember when your company got the Springfield rifles?—A. We got into Point Ysobel on the day of the 15th.

Q. Of what month?—A. Of April; and the next day, I believe, we were issued the rifles. They were shipped to us from Brownsville. We marched down without arms.

Q. Were you down at the target range at Point Ysobel?—A. Yes, sir.

Q. And you participated in the target practice?—A. Yes, sir.

Q. Can you tell us anything about cleaning these guns after they have been fired? What we want to find out is how long, according to your experience and your observation of others in that respect, it takes to clean one of these guns after it has been fired, we will say, three or four or five or six times, so that it will pass inspection—cleaning the bore, I mean, and cleaning the chambers.—A. A man could not do it very much under half an hour.

Q. Not much under half an hour; that is your experience, is it?—A. Yes, sir.

Q. Could he clean it successfully and satisfactorily in the dark, without a light of some kind, so that it would pass an inspection?—A. No, sir; I do not think he could.

Q. Were you carrying a gun at the time when your battalion left Fort Brown?—A. No, sir.

Q. You had then come to be cook?—A. Yes, sir; I was cook.

Q. Do you remember whether or not you were issued any extra ammunition that night?—A. There was no ammunition issued to me, on account of my not carrying a gun.

Q. None issued to you?—A. No, sir.

Q. But what happened as to the company you do not remember.—

A. I could not very well say, because I was not with the company.

Senator FORAKER. That is all.

By Senator WARNER:

Q. You were at Fort Brown how long, altogether, corporal?—A. Very nearly two years.

Q. And you have enumerated, as you say, in your examination yesterday, all that you heard as to the feeling of the people of Brownsville about the colored soldiers?—A. Yes, sir.

Q. One of these conversations was at the Miller Hotel?—A. Yes, sir; with the proprietor.

Q. What was his name?—A. Mr. Moore.

Q. And what was it he said?—A. When he came up to buy the fruit, he was talking about the colored troops being ordered there, and he said he did not think they would remain there very long. He said he had no use for a nigger, and he thought they would be removed from there in a short time.

Q. That they would be removed from there?—A. Yes, sir.

Q. Now, is it not a fact that they expected their Senators or Congressmen would get them removed?—A. He did not say anything about that.

Q. You knew that, didn't you?—A. That was my idea at the time.

Q. And you heard that rumored, did you not, that your Senators were trying to prevent their coming there?—A. No, sir; I did not hear anything to that effect.

Q. What did you hear about that?—A. I did not hear anything about that at all.

Q. But your idea was that they were going to try to get them removed through their influence in Washington.—A. My idea was that they very likely intended to put in a petition to have this done. That was my idea.

Q. And you knew, generally, that in certain parts of the country it is not a welcome thing to change white troops for colored troops at a post.—A. No, sir; it is not.

Q. You have been in the service how long?—A. Very nearly nineteen years, sir.

Q. What posts have you served at?—A. I have served at Fort Keogh, Mont.; Atlanta, Ga.; Plattsburg, N. Y.; Fort Douglas, Utah; Ringgold, Tex.; Fort Brown, Tex.; Mount Vernon, Ala., and Fort Sam Houston, Tex.

Q. A very general service through that part of the country?—A. Yes, sir.

Q. Were you succeeded in any place by colored troops, any other place except there?—A. No, sir; except at Brownsville.

Q. Did you succeed colored troops at any of those places?—A. No, sir; not to my knowledge.

Q. The feeling with reference to colored troops at Brownsville was about what you have found it in other places, was it not?—A. Well, in fact, I never had any conversation in any other place about colored troops.

Q. And these were all the conversations you had at Brownsville that you have given there?—A. Yes, sir.

Q. Now, you had a conversation also, as you say, a block below the Miller Hotel?—A. About a half a block—midway between the block.

Q. With whom was that?—A. Mr. Weller, a man in the saloon business.

Q. And what was it he said?—A. He said that he did not think the colored troops would remain there very long; that they would get rid of them in some way.

Q. You took that to mean the same as the other?—A. That they would try to get them out of there, no matter how.

Q. You took it that they would get it through petition or influence?—A. That was my idea.

Q. Now about this cleaning of a gun fired five or six times in a short time after it is fired, within an hour or two, it is much easier to clean than if it is left to stand for some time, is it not?—A. If a gun stands an hour after it has been fired, the powder becomes caked and it is difficult to get it out to pass inspection thoroughly. If it is cleaned immediately after firing, you can clean it a heap quicker while it is hot.

Q. Clean it quicker?—A. Yes, sir; while it is hot.

Q. There is an inspection of guns every Saturday, is there not?—A. Yes, sir.

Q. A thorough inspection?—A. Yes, sir; and very often in target practice they are inspected every evening.

Q. That is where there is target practice?—A. Yes, sir.

Q. And the guns are to be cleaned before they are to be put away, are they not?—A. Yes, sir.

Q. That is the rule?—A. Yes, sir.

Q. So if they are sent out on guard or for any service the guns will be in proper condition?—A. In proper condition to stand inspection.

Q. Or for service?—A. Or for service.

Q. And that is the invariable rule, is it not, in all the commands you have been in in the eighteen years?—A. Yes, sir.

Q. If a gun is cleaned immediately after firing, it can be cleaned much quicker?—A. Yes, sir; a great deal quicker.

Q. Now, a gun that has been fired five or six times, if you cleaned it immediately after the shooting, just to remove the powder stains so it would not show that it had been discharged, that would only take a few minutes, would it?—A. A man could do it in fifteen or twenty minutes, provided he had the ramrod and material.

Q. Could he not do it in five minutes?—A. No, sir; he could not. A man can tell by looking through the barrel that it has been fired after five minutes' cleaning.

Q. Did you use kerosene?—A. Kerosene is very good; yes, sir.

Q. Is not that really the quickest and best way?—A. The quickest and best way is to use soda and water. There is soda prepared for that purpose.

Q. You knew of the brushes they use in cleaning guns?—A. Yes, sir; that is simply to loosen the powder up.

Q. But they sold brushes there at the canteen?—A. It is the same as the brush that is in the gun.

Q. Was that the same kind of brush that was in the gun?—A. The same kind which went with the gun. Each man, when he draws a gun, he gets a thong and brush in the butt of his gun.

Q. That one you got in the canteen, was that the same kind of a brush?—A. The same kind of brush exactly.

Q. You could buy them there?—A. Yes, sir.

Q. Did you have one of those?—A. Yes, sir; I have one now, at the present time.

Q. The men generally had those?—A. Yes, sir.

Q. And the cleaning apparatus—the men generally had it in their rooms, did they not, each man being prepared to clean his own gun?—A. Yes, sir; they all have a cleaning box with the cleaning material in it.

Q. And this rod you speak of, they would make rods out of wire, also, would they not?—A. Yes, sir; they can.

Q. So they would have a sufficient number of rods in the company?—A. Yes, sir; they generally have three or four in a squad room.

Q. And a squad would be how many men?—A. A squad is eight men, but what they call a "squad room" they put a section in generally.

Q. You spoke of a squad?—A. A squad room may have three or four or five of these rods.

Q. How many men would be in that room?—A. Maybe 20 or 24 men in that room, a section.

Q. Your company was what size there?—A. Our company in Brownsville, we had 67 men.

Q. How many squads?—A. About seven or eight squads, I guess, but all the men did not sleep in the squad room—the quartermaster-sergeant, the artificer, the first sergeant, and the cooks, and some men on special duty.

Q. I am speaking of the number of squads. A squad was in charge of whom?—A. In charge of a corporal, a corporal to each squad.

Q. And each squad would have how many of these rods, did you say?—A. There would be seven men and a corporal to each squad; but in the squad rooms, there is three or four squads in a room, and there would be from three to maybe five of these rods in each room.

Q. They could make these rods out of wire, and they did?—A. Make them out of heavy telegraph wire; yes, sir.

Q. Which answers just as well as the other?—A. Yes, sir.

By Senator OVERMAN:

Q. How many rods to each squad?—A. To each squad room there would be maybe from three to five of those rods.

Q. How many squad rooms are there?—A. We have three at the present quarters where they are now.

Q. How many up in the barracks where they slept?—A. Well, that is divided into squad rooms. There are two squad rooms upstairs and one down, and then the recreation room and storeroom.

Q. How many would that make in all—how many rods?—A. From nine to twelve.

Q. Besides that they had rods that they had improvised and made out of telegraph wire, you say?—A. Yes, sir; every man can make his own if he wants to.

Q. Did they do it?—A. Yes, sir; some of them does. I had one myself.

Q. Is it not the usual thing for a man to have a rod?—A. Yes, sir.

Q. Of his own?—A. Yes, sir.

By Senator WARNER:

Q. You knew also the jointed rods that they had with the Krag?—A. Yes, sir; I have seen them and handled them.

Q. A good many of the men kept those rods, didn't they, after they got the Springfield?—A. Well, they could not very well keep them, because there is one rod to each rifle, three joints to the rod, and one rod to a rifle, and when they turned in the Krag-Jørgensen they turned in the rod with it. They turned it in as a part of the gun.

Q. I think it is in evidence here that one soldier accumulated five of those.

Senator FORAKER. Five sections.

Senator WARNER. My remembrance is 5 rods.

A. He may by finding those that had been lost.

Senator OVERMAN. Five rods.

A. Three pieces was the regulation for each rifle.

By Senator WARNER:

Q. Did you have cartridges?—A. Not in Brownsville. I was in the cook house most of the time. When I was out of the cook house I was issued 10 rounds for doing guard duty.

Q. But you had no cartridges when you were cook—did you have any around your quarters?—A. No, sir; the cook very seldom has any arms. They are turned into the orderly room or into the storeroom and put away, because he does not have any drill to stand or any parade or anything, and the rifles are oiled up and everything and turned in and boxed up.

Q. The cooks did not keep their rifles?—A. No, sir.

Q. They were put in the storeroom?—A. Yes, sir.

Q. Did you have these gun racks at any time?—A. We did not have any gun racks, sir—we had toward the last; just before we left we received the gun racks.

Q. But, as I understand, you were not doing company duty, so you were not familiar with the conditions?—A. No, sir; I was not doing company duty at the time.

Q. And you have narrated all that you know about the feeling at Brownsville?—A. Yes, sir.

Q. Did you ever have any trouble there?—A. No, sir; I never had any trouble myself.

Q. You have been all through the town?—A. I walked around the town considerably; yes, sir.

Q. Day and night?—A. In the day and in the evening after supper.

Q. At 11 o'clock, that was the time to come into camp, was it not?—

A. Yes, sir; but I very seldom stayed out until 11 o'clock.

Q. You have seen soldiers all around the streets?—A. Yes, sir.

By Senator OVERMAN:

Q. If a soldier in Brownsville behaved himself, he had no trouble, had he?—A. Well, he would not have any trouble as long as he did not get into conversation with some Mexican.

Q. Did you ever have any conversation with Mexicans?—A. Some few that I knew personally, that could talk good English.

Q. Well, you talked to Mexicans.—A. I have talked with them; yes, sir.

Q. Had no trouble?—A. I never had any trouble.

Q. Did you ever talk with policemen?—A. Yes, sir.

Q. Never had any trouble with them?—A. No, sir.

Q. If a man would behave himself like a gentleman, he would not have any trouble, would he?—A. No; I believe not.

By Senator FOSTER:

Q. You spoke about hammering a man over the head—one of the soldiers being hammered over the head with a six-shooter.—A. Yes, sir.

Q. Which soldier was that?—A. A man by the name of Cyzyack, and one by the name of Schupolsky is another, but that did not occur from a policeman. That occurred from the rangers, from what I could understand. I did not see it.

Q. Did you see either one of those occurrences?—A. No, sir; I did not see either one of them; I seen the effects of it.

Q. Did you know how the trouble happened?—A. No; I did not.

Q. Did you know who was at fault?—A. No, sir.

Q. Now, how many blows did Cyzyack have on his head?—A. I seen three or four scars on his forehead, big scars around here [indicating], cut wide open; they had to shave the hair all off and get it fixed up in plaster.

Q. Where was Cyzyack from?—A. He belonged to my company.

Q. What country was he from?—A. It is very hard to tell what country he did come from.

Q. What nationality?—A. I could not tell you.

Q. How long had he been in your company?—A. He had been in the company ever since I had.

Q. Did you see him immediately after his difficulty?—A. Immediately after his release out of jail. He was beat up and put in jail, and was released; his fine was paid.

Q. How long after the difficulty that Schupolsky had did you see him?—A. I seen him the next morning, sir.

Q. Was he in jail?—A. Yes, sir.

Q. How many blows had he received?—A. I seen two scars on his head, about the same place as this man Cyzyack's head, on the forehead principally.

Q. You saw nothing of the difficulty?—A. No, sir.

Q. You do not know whether he assaulted the policeman or not?—A. No, sir; I do not.

Q. And you do not know whether Cyzyack did?—A. No, sir.

Q. What other soldier can you now recall as having had trouble with the police?—A. A man by the name of Parker, a musician. I believe he had some trouble down town. I was not there. I did not see it. When he came back he had a couple of scars on his head, and said he had been hit by a policeman and arrested, and afterwards turned over to a man of the company and brought home.

Q. Then what other men?—A. That is all.

Q. You were there, were you, with this company how many years?—A. I was there very nearly two years.

Q. Did you know of any other soldier in your company or in your battalion having had any trouble with any officials?—A. Yes, sir; there was one man I forgot; a man named Newt. Bryan had some trouble with the police and was shot through the leg.

Q. Did you ever know of one of your soldiers having any trouble with any of the citizens?—A. Well, sir, I don't know as I did; not in my company.

Q. Did you discuss generally with the citizens of that town the coming of the colored troops?—A. The two men that I was talking to, that I talked to personally myself.

Q. Those were the only two men?—A. Yes, sir.

Q. Whom have you talked to about the evidence you were going to give in this case?—A. Who have I talked to?

Q. Have you talked to anyone about the evidence you were going

to give in this case? Did anybody question you about what you knew about it?—A. No, sir.

Q. No one at all?—A. No, sir.

Q. At Fort Sam Houston?—A. Not at Sam Houston that I knew of.

Q. Or since you have been here?—A. No, sir.

Q. You met no one?—A. No, sir.

Q. Discussed the subject-matter of your evidence with no one?—A. No, sir.

Q. How did anybody happen to know what you were going to testify about?—A. I suppose they heard me talking in the squad room at home, about Brownsville, about this man Moore.

Q. Is he here?—A. No, sir. He is the proprietor of the Miller Hotel. I suppose maybe I passed a remark afterwards about his conversation and somebody picked it up.

Q. No one at Sam Houston asked you what you knew about this case?—A. No, sir.

Q. No one at all?—A. No, sir; not that I know of.

Q. Do you know a man named Ferguson?—A. Yes, sir; I know him.

Q. Did you ever talk with him about this case?—A. No, sir; I never did.

Q. Where did you meet him?—A. I first met him right here.

Q. How did you happen to meet him?—A. When I was summoned up here as a witness he came up and asked me my name, and I told him.

Q. Did you ever meet him in Sam Houston?—A. No, sir; not to my knowledge.

Q. Of your knowledge—you know whether or not you met him there?—A. In fact, I am certain I did not meet him there.

Q. You swear positively that you did not meet him at Sam Houston?—A. Yes, sir.

Q. Did you talk to him here about what you were going to swear to?—A. No, sir.

Q. He never asked you anything about it?—A. No, sir.

Q. What did he ask you?—A. He asked me my name, and I told him.

Q. That is all?—A. Yes, sir.

Q. Nothing else?—A. Nothing else.

By Senator OVERMAN:

Q. Where did you meet Ferguson here in town?—A. I met him right here at the Capitol, sir.

Q. Did you go to him or did he come up to you?—A. No, sir; he came up to me—came over here amongst the witnesses, was talking around amongst the witnesses, and I got an introduction to him.

Q. Talking among the witnesses?—A. Yes, sir.

Q. Is he a white man or a colored man?—A. He is a white man.

Q. You think he is white, do you?—A. I think so.

Q. Are you positive about it?—A. I could not swear to it, but he looks like a white man to me.

Q. Or did he look more like a mulatto?—A. He may be a mulatto.

Q. He is not very white, is he?—A. No, sir; he is dark skinned a little.

Q. You say he is down here talking to the witnesses in the Capitol?—A. Yes, sir; he was showing us around here one day when we had nothing to do—showing us through the Capitol.

Q. Did he say anything about this case?—A. No, sir.

Q. He seemed to have charge of the witnesses, did he?—A. No, sir; he did not seem to have charge of them at all. He just showed us around, asked if we would accept him as a guide, and we told him he would be acceptable. He took us around, showed us all he knew.

Q. He did not have a badge on him showing he was a guide, did he?—A. No, sir; I don't think he had.

By Senator FORAKER:

Q. Mr. Rimmel, do you know anything about how you happened to be subpoenaed here?—A. No, sir; I do not.

Senator FORAKER. Well, I will tell you, and tell the committee, so it will go into the record. This man Ferguson, who is referred to here, was requested by me to go to Fort Sam Houston to ascertain what certain people, whose names had been given me in an anonymous letter as having information that might be valuable, did, in fact, know about it, and he went down there at my expense and ascertained, by making some inquiries there, and he came back and gave me certain names and I subpoenaed them, and this man is one of them, and I do not suppose this witness ever knew he was coming here at all. [To the witness:] You did not talk with Ferguson there or anybody else, did you?

A. No, sir; I don't remember ever seeing him there at all.

Senator FORAKER. I gave him a letter to an officer there. I think the committee themselves ought to know about that, and if they suspect that anything improper has been done in the matter of getting witnesses here, I would like to be sworn and make a statement.

Senator OVERMAN. I do not suppose that anybody has reflected on you, Senator.

Senator FORAKER. I hope not.

Senator FOSTER. I know I certainly am not doing so.

Senator OVERMAN. We know it has been in proof here that some league in New York—

Senator FORAKER. The Constitution League.

Senator OVERMAN. That they were very busy about this matter, and it is in evidence also that an affidavit was taken by this man, who put down what the witness swears he did not say.

Senator FORAKER. And the same statement is made as to testimony given before Mr. Purdy and others.

Senator OVERMAN. Well, he said that; and it is also in evidence that that man has come to Washington, and he is here with the witnesses, out here in the corridor. I don't know him. His name is Ferguson, and if you had not stated that you sent him there I should have supposed it was the league; but you had a right to send whom you pleased, and I am not criticising you in any respect.

Senator FORAKER. One further remark. The committee asked me to take charge of this examination of witnesses. I stated to the committee in open session that I could not do that unless I should be allowed to see the witnesses, or have somebody see them, and ascertain and report to me what different witnesses could testify to, and every

member of the committee said that was all right, that I should do so, and I supposed I had the approval of the committee in advance to do so.

Senator OVERMAN. Surely; and I do not think the Senator, when he thinks about it, will suppose that these questions are in any way intended to reflect on him, because that is the usual way of examining witnesses by a lawyer. All lawyers know that.

Senator FORAKER. I feel it is due to the witness that I should make that statement, so that he would not appear to be making a misstatement when he said he had not talked with anybody, for he has not talked with anybody that I know of. I have had no talk with him, except when he has asked me two or three times when I would put him upon the stand. I have a memorandum here furnished me as to what it was reported that this witness would testify to.

Senator FOSTER. I think you and every other member of the committee has a perfect right to talk to the witnesses, in order to ascertain what they know, and if this lawyer, Ferguson—

Senator FORAKER. He is not a lawyer.

Senator FOSTER. I thought he was a lawyer.

Senator WARNER. Is he an alleged lawyer?

Senator FORAKER. No; he does not pretend to be a lawyer, so far as I know. I have only known him since this matter came up.

The CHAIRMAN. Is he a man who volunteered to assist?

Senator FORAKER. Well, yes; he did. He came to see me.

The CHAIRMAN. He rather sought you in the matter, instead of your seeking him?

Senator FORAKER. He came to see me about it, and then when I got a letter that led me to think there was perhaps some information obtainable at Fort Sam Houston, I sent for him.

The CHAIRMAN. And the letter, I think you said, was anonymous?

Senator FORAKER. That was an anonymous letter. I do not know who sent it. I do not suppose it is proper to put it in evidence. There is no objection to doing so if the committee desires. It did not tell me anything about what anybody would swear to.

Senator OVERMAN. I think, as you were managing the case, you had a perfect right to do that.

Senator FORAKER. I did not want to conduct the case. I wanted Governor Black, the counsel chosen by the Constitution League, to do it, but the committee said no, they did not want him, and I said I should not undertake it unless I was allowed to talk with the witnesses, without being open to any criticism from the committee.

Senator OVERMAN. But you can see the nature of our cross-examination, because there has been proof here that this man Ferguson put down testimony that was not sworn to.

Senator FORAKER. That was stated in one or two cases, and it is also stated in testimony here that officers put down testimony in a different way than the witnesses stated it, that they called witnesses in and heard their statements, and wrote them out, and all that sort of thing.

The CHAIRMAN. All of which we want to go on record as we go along.

Senator FORAKER. That is all right.

Senator FOSTER. I wanted to find out about it.

Senator FORAKER. I want it understood once for all about these witnesses, that I did that upon my own responsibility, and I did it at my own expense.

Senator OVERMAN. Do you not think it is proper that you should have made that statement? I am very glad that you did.

Senator FORAKER. The Constitution League had nothing to do with it. They do not know anything about these people one way or the other.

Senator FOSTER. I wanted to find out from the witnesses about the conversations which they had with this man Ferguson, whether they talked with him before, and if it was understood what they were going to swear to from the conversations with Ferguson.

By Senator FORAKER:

Q. Have you had any conferences with anybody as to what you should swear to?—A. No, sir.

Q. Has your testimony been fixed up in any way?—A. No, sir.

Q. You did not know until you came into this room what questions you would be asked, did you?—A. No, sir; I did not.

Q. And you have answered out of your own knowledge?—A. To the best of my knowledge.

Q. And you have been telling us the truth?—A. Yes, sir.

Q. And nothing but the truth?—A. Yes, sir.

Senator WARNER. Before you go on with this examination, I want to say that I take it for granted that it is the right of the Senator who has been assigned to present this evidence to talk with the witnesses.

Senator FOSTER. I go further than that—

Senator WARNER. Let me make my speech. He has a right, if he sees fit, to send parties, and if the Constitution League thinks that citizens have not been treated fairly it has a right to use any legitimate means to secure testimony here, and personally, as far as I am concerned in this matter, what little part I have taken in it has not been of my own seeking. I should have preferred to get away from Washington and from the committee, as fond as I am of its members. Whatever part I have taken here was because it was at the request of the committee, and while I have talked with no witness who has been upon the stand, and may talk with no one who will go upon the stand, yet if I found it necessary, in order to understand what the testimony was going to be, I should feel that I was at perfect liberty to do so.

Senator FORAKER. Certainly.

Senator FOSTER. I do not see how any man can conduct any investigation of this character unless he knows something about what the witnesses will swear to.

The CHAIRMAN. Right here I want to say this—it has been intimated to be otherwise—I want to say that the position that Senator Warner occupies in this examination is entirely at the request of myself as chairman of the committee, after consulting members of the committee and members of the committee only. There has never been a suggestion made outside of this committee which sits about this table as to the conduct of the case and as to Senator Warner's selection.

Senator FORAKER. And you have put it in good hands, Mr. Chairman.

The CHAIRMAN. I think so. I feel that every member of the committee approves of the selection.

Senator FORAKER. I have met a good many lawyers in my time, and I have never met a smoother cross-examiner than Senator Warner.

The CHAIRMAN. We all know that he has to be a smooth examiner to follow the Senator from Ohio.

By Senator BULKELEY:

Q. Corporal, the conditions that you have described in regard to the number of cleaning rods and the different kinds of cleaning rods were the conditions that prevailed in your own company or in your battalion, were they? You have described them as they prevailed in that battalion?—A. No, sir; in my own company.

Q. In your own company?—A. Yes, sir.

Q. Do you know whether the same conditions applied to some other companies in your battalion or to the battalion of another regiment?—A. I could not say, sir. Each company quartermaster generally looks out for his own company only—that is, the quartermaster-sergeant.

Q. These extra rods, did the quartermaster-sergeant provide them or did the men provide themselves with them?—A. He can have them made or the men have them made themselves.

Q. But you don't know whether the same conditions exist in any other command or not, or the same regulations?—A. No, sir.

Q. Or the same provision for furnishing those rods?—A. No, sir; I don't know.

Q. You say that only applied to your own company and your own command?—A. Yes, sir; that is all.

Q. That is the Twenty-sixth?—A. The Twenty-sixth Infantry.

By Senator FORAKER:

Q. Company M?—A. Company M.

Senator BULKELEY. That is all.

Senator FORAKER. That is all.

TESTIMONY OF FRANK FISHER.

FRANK FISHER, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Do you belong to the Twenty-sixth U. S. Infantry?—A. Yes, sir.

Q. What company?—A. Company M.

Q. Were you with that company at Fort Brown in August of last year?—A. With the company; yes, sir.

Q. During the early part of 1906 were you with that company at Fort Brown?—A. Yes, sir; I went away during the early part.

Q. Were you with it until the company left there?—A. Yes, sir.

Q. For San Antonio?—A. I was there.

Q. Do you remember at what date your company left?—A. The 5th of July, 1906.

Q. What kind of special or extra duty, if any, were you engaged in?—A. I was cook.

Q. You were company cook?—A. Yes, sir.

Q. With whom were you associated in that extra duty?—A. Cook Rimmel.

Q. The witness who has just left the stand?—A. Yes, sir.

Q. Do you know Mr. Moore, who was in 1906, as we understand, the proprietor of the Miller Hotel at Brownsville?—A. Yes, sir; I do know him.

Q. Do you remember his coming to your quarters while you were engaged as cook?—A. Yes, sir.

Q. At any time during that year?—A. Yes, sir; he came there between the 2d and 5th of July.

Q. I will ask you first whether or not at that time it had been announced that your battalion was to leave and that you were to be succeeded by this colored battalion?—A. Yes, sir; we had heard about it.

Q. State whether or not when he came to your place on this occasion there was any talk on his part about the coming of that battalion, and if so what did he say about it?—A. He came in to buy some of this fruit that we had left over, and such stuff as that, and he was talking about our leaving, and he said he was sorry to lose "you boys;" that he did not like those niggers to come here. Well, I said to him, "You will get along all right with the niggers; they are pretty good sort of fellows." He said, "We don't want the niggers, and we are going to get rid of them."

Q. "And we are going to get rid of them." Did he say anything about how they would get rid of them?—A. No mention made about it.

Q. How long have you been in the Army?—A. Seven years, now.

Q. Where all have you served?—A. In the Twenty-sixth Infantry all of my time.

Q. All of your service has been in this same company?—A. In this same company.

Q. Have you served anywhere outside of the United States?—A. No, sir.

Q. You were not in Cuba?—A. No, sir. I was over in the Philippine Islands.

Q. You were in the Philippine Islands?—A. Yes, sir.

Q. How long did you serve in the Philippine Islands?—A. Two years and seven months.

Q. This regiment was not organized, I believe, until after the Cuban war?—A. It was organized in 1900 and 1901. It was started to be organized in 1900.

Q. Then you have belonged to this regiment ever since it has been organized?—A. Yes, sir; ever since it has been organized.

Q. And you served how long in the Philippine Islands?—A. Two years and seven months.

Q. Were you in any engagement? Were you under fire over there?—A. A little.

Q. At what places?—A. I was in the expedition when they went after General Bellormino, in Luzon, and there was in Samar a relief expedition.

Q. You were with your regiment wherever it was?—A. Yes, sir.

Q. Tell us whether or not you were in a position to observe, and whether or not you did observe, what the feeling was in the town of Brownsville generally, among the citizens there, with respect to the colored troops when they heard that they were coming. Did you hear any expressions of any kind as to what that feeling was?—A. The only expression that I heard was that man Moore.

Q. That is all you heard?—A. Yes, sir.

Q. That is all you can tell us about it?—A. Yes, sir.

Q. Who was present when he made the remark you have just testified about other than yourself?—A. Cook Rimmel and Private Rappe.

Q. Private Rappe was present also at that time, was he?—A. Yes, sir.

Q. And Cook Rimmel, who has just left the stand?—A. Yes, sir.

Q. Now, have you had any experience in the cleaning of this Springfield rifle?—A. Yes, sir; I have had some.

Q. I wish you would tell us how long it would take a soldier who was an average expert at the business to clean one of these rifles so that it would pass inspection after it had been fired some five or six times.—A. It takes about a half an hour; between a half an hour and forty minutes.

Q. Takes that long, does it, in the Twenty-sixth Infantry?—A. Yes, sir; can not do it any quicker.

Senator FORAKER. I believe that is all I want to ask this witness.

By Senator WARNER:

Q. It takes thirty or forty minutes?—A. Between thirty and forty minutes.

Q. To do what to the gun?—A. Clean the bore, chamber, and everything that is necessary to stand an inspection.

Q. Not being soldiers, we can not tell what is not necessary to stand an inspection. Just tell us.—A. To clean the bore so that there is no trace of powder left in it. During the firing there may be some gases from the explosion settle in the chamber. You have got to clean that out, and the chamber of the Springfield rifle is of such a shape that you can not get it out in any other way except you have a stick and a rag to clean that out; and many times if it is left there for two or three hours it is going to be caked, and you must have either soapsuds or coal oil to clean it.

Q. What else do you do in cleaning a gun?—A. That is all I can say.

Q. Don't you have to take out the floor chamber, as they call it?—A. The bolt?

Q. The floor chamber?—A. No, sir.

Q. You do not have to take that out?—A. No, sir.

Q. No necessity for doing that?—A. Not any necessity.

Q. You have been using coal oil?—A. Sometimes they use coal oil and sometimes soapsuds.

Q. Is soapsuds just as good?—A. Yes, sir.

Q. Which, in your experience as a soldier, is the best, coal oil or soapsuds?—A. soapsuds.

Q. Soapsuds is the best?—A. Yes, sir.

Q. And each soldier has the appliances with which to clean his gun?—A. Well, he has that cleaning brush, but that would not clean any gun, but just loosen it, and they have got to have a ramrod and rags.

Q. Well, each soldier has a box in which he has the things, so that he is prepared to clean his gun?—A. Not always.

Q. Well, he should have?—A. No, sir; there are only four rods in the company.

Q. Only four rods in the company?—A. That is about all.

Q. Don't they make rods out of telegraph wire?—A. Not very handy; they are too limber.

Q. Would not do?—A. No, sir.

Q. You have been a soldier how long?—A. Seven years now.

Q. Did you ever see rods made out of telegraph wire?—A. I have seen rods made out of steel wire, but not out of telegraph wire; that is too soft.

Q. What is steel wire?—A. Wire that is hardened, tempered.

Q. How would those rods be made up?—A. Generally by the artificer of the company.

Q. For the company?—A. Yes, sir.

Q. How many of those rods would there be?—A. Just as many as would be necessary, sometimes three or four, sometimes more.

Q. How many of the brass rods?—A. Generally four to a company.

Q. And three or four or more of the others?—A. Yes, sir.

Q. To each company?—A. Yes, sir.

Q. And these rods made out of steel wire, as you have expressed it, answer just as well as the others?—A. Well, not exactly. They will damage the bore of the rifle—a steel rod will.

Q. Damage the bore of the rifle? With that exception they do just as well?—A. With that exception, just as well.

Q. Clean a gun just as quick with them?—A. About the same.

Q. Just as thoroughly?—A. Yes, sir.

Q. Did you ever try, after firing a gun five or six times, just to remove the powder stains to see how long it would take you?—A. I never took any notice how long it took me.

Q. You would not attempt to say?—A. No, sir.

Q. Did you have cartridges while you were at Brownsville?—A. Yes, sir; we had cartridges.

Q. Where did you keep your cartridges?—A. In the cartridge box—the McKeever belt box.

Q. You did not have cartridges while you were cook, did you?—A. Yes, sir; we had a full equipment, the same as any other man.

Q. Where did you keep your cartridges when you were cook?—A. Kept them in the room.

Q. What room?—A. The cook's room.

Q. You were second cook, were you, or first cook?—A. Second cook.

Q. Who was the first cook?—A. John E. Rimmel.

Q. Where did he keep his gun and cartridges?—A. He must have kept them the same place.

Q. Well, we do not know where he kept them. Tell us, if you know.—A. In the cook's room.

Q. So you had two guns in the cook's room, yours and the first cook's?—A. Yes, sir.

Q. Have any ammunition there?—A. Twenty rounds, 10 rounds apiece.

Q. You are quite clear that you had that all the time you were in there as cook?—A. I am almost certain.

Q. And as to the feeling in Brownsville, all you have known about that is as you have stated in your examination from this conversation with Mr. Moore?—A. That is all, sir.

Q. What was Mr. Moore doing then?—A. He was buying some fruit.

Q. That is your surplus?—A. Yes, sir.

Q. Of the rations issued to the company, if they have a surplus, you can sell the surplus and buy other things for the company?—A. Yes, sir.

Q. And you are very willing to exchange dried apples sometimes for vegetables, are you not?—A. Well, for anything we could get.

Q. And Moore expressed his regret that you boys were going away?—A. He did, sir.

Q. And the substance of it was that he preferred to have you there to the colored people?—A. Yes, sir.

Q. And, as you say, when he said that they would not be long there, or would not be long getting rid of them, or whatever it was, he did not state how they expected to get rid of them?—A. He did not say. He said they were going to get rid of them; that is all.

Q. Did he say anything about by petition or by the influence of Congressmen or Senators, or anything?—A. No, sir.

Q. That was all?—A. Yes, sir.

Q. You were at Brownsville how long?—A. I was not there but about six weeks.

Q. And that is all you know of this?—A. That is all.

By Senator FORAKER:

Q. I want to ask you one other question. You say each man had ten rounds of ammunition?—A. Yes, sir.

Q. Was that ball ammunition?—A. Ball ammunition.

Q. And you left about the time that the new guns were issued to you, did you?—A. After the guns were issued to us.

Q. The new guns were issued to you about the middle of April, as I understand it?—A. I don't know, sir; I was not there when the new guns were issued.

Q. Where were you then?—A. I was at Fort Logan H. Roots.

Q. You were at that fort at that time?—A. Yes, sir.

Q. Was your company stationed there?—A. No, sir; I was there in confinement.

Q. You were there in confinement?—A. Yes, sir.

Q. Without going over that now, I want to go back to the rounds of ammunition. There were ten rounds?—A. Ten rounds.

Q. All that you had?—A. Yes, sir.

Q. State whether or not you were issued any additional ammunition before you left Brownsville to go to San Antonio.—A. Yes, sir; they were issued ten more rounds, I believe, either the 3d or 4th of July.

Q. The 3d or 4th of July you were issued ten additional rounds?—A. Yes, sir.

Q. So that when you left Brownsville for San Antonio each man had 20 rounds of ammunition?—A. Yes, sir.

Q. That was ball ammunition, was it?—A. Ball ammunition.

Q. That is the regular .30 caliber?—A. .30 caliber Springfield ammunition.

Q. The 1903 cartridge?—A. Yes, sir.

Q. Now, Mr. Fisher, you have referred to the fact that you were in confinement. Please tell the committee what you were in confinement for and how long you were in confinement.—A. I was tried for desertion, and I got a sentence of nine months in confinement.

Q. You were tried for desertion at Fort Brown?—A. At Fort Logan H. Roots, Ark.

Q. You were tried at Fort Brown?—A. No, sir; I was tried in Fort Logan H. Roots, and my confinement was to be there in Fort Logan H. Roots, and I joined the company after I was released from confinement, joined it at Fort Brown.

Q. What time did you join the company?—A. May 15, 1906.

Q. Where did you go when you deserted—some place in this country or did you go out of the country?—A. No, sir; I went straight to Dallas, Tex. Later I went down to Little Rock, Ark.

Q. Where were you arrested?—A. I was not arrested at all; I surrendered.

Q. You went and surrendered yourself?—A. Yes, sir.

Q. How did you come to do that?—A. Well, I knowed I was doing wrong, so I concluded to stand it.

Q. You repented, I suppose?—A. Yes, sir.

Q. Felt troubled in your mind about it?—A. Yes, sir.

Q. How long were you out after you had deserted?—A. About eleven months.

Q. You were out about eleven months?—A. Yes, sir.

Q. And nobody arrested you or disturbed you?—A. No, sir.

Q. And then you went and surrendered yourself?—A. Yes, sir.

Q. To the military authorities at Fort Logan H. Roots?—A. Fort Logan H. Roots.

Q. And then they tried you there?—A. Yes, sir.

Q. And sentenced you to nine months?—A. Yes, sir.

Q. Notwithstanding the fact that you had surrendered yourself?—A. Yes, sir.

Q. You served out your sentence?—A. Yes, sir.

Q. And then returned to your command?—A. Yes, sir.

Q. And served with it until this time?—A. Until discharged.

Q. Have you reenlisted since?—A. Reenlisted a few days ago.

Q. A few days ago you reenlisted?—A. The 6th day of this month.

Q. The same command?—A. Yes, sir.

Q. They accepted you?—A. Yes, sir.

Q. Have you ever had any other trouble?—A. No, sir.

Q. Were you born in this country?—A. No, sir.

Q. Where were you born?—A. I was born in Austria.

Q. How old are you?—A. Thirty-five.

Q. How long have you lived in this country?—A. Since 1889.

By Senator FOSTER:

Q. Did you go around Brownsville much after you returned there in May?—A. Not very much.

Q. Did you go down in the town?—A. I went down several times, but not very much.

Q. Had no trouble there, did you?—A. No, sir; I never had any.

Q. The people there treated you well, didn't they?—A. They never had any occasion to treat me any otherwise.

Q. You acted well yourself, and the people treated you well?—A. Treated me well; I never had much talk with anybody.

Q. Nobody disturbed you, did they?—A. No, sir.

Q. No officials troubled you?—A. No, sir.

Q. You had no differences or difficulties with any citizens while you were there?—A. No, sir.

By Senator OVERMAN:

Q. I understand you, if I understood you correctly, that to clean a gun thoroughly the screws and bolts and bore and all the gun entire, would take about half an hour, to clean it well for inspection?—A. Yes, sir.

Q. How long would it take you, in your judgment, to clean the bore of the gun?—A. About twenty-five minutes.

Q. About twenty-five minutes. And it would take you only five minutes to clean the other parts?—A. The other part is the easiest part of it. The bore is the worst.

Senator OVERMAN. That is all.

By Senator FORAKER:

Q. Do you remember out of what these ten extra cartridges per man were issued to you that night? Do you remember that? Do you remember seeing them taken out of any boxes?—A. They were issued out of the storeroom. The quartermaster-sergeant issued them out, with the help of the company artificer.

Q. Who was the company artificer?—A. Martin J. Schreiber.

Q. I will direct your attention immediately to this. Do you know whether they ever issued out bandoliers?—A. No, sir; there wasn't a bandolier issued.

Q. The cartridges were simply—A. Taken out of the bandoliers and issued to each man.

Q. Yes. That is, the cartridges were taken out of the bandoliers?—A. Yes, sir.

Q. And the bandoliers were emptied of them?—A. Yes, sir.

Q. Do you know anything about what was done with the bandoliers?—A. I believe they shipped them, so far as I know.

Senator WARNER. They did what?

The WITNESS. They shipped them back to the arsenal again.

By Senator FORAKER:

Q. Do you know anything about that?—A. No, sir.

By Senator WARNER:

Q. Just one word in that connection. You know, as a soldier, that they take care of the bandoliers; and they are to be shipped back to the arsenal, are they not? They are valuable.—A. I expect they are valuable. They are supposed to be shipped back.

Q. You know that is the custom; you know that as a soldier?—A. Yes, sir.

Q. Just one other question, Mr. Fisher. When you were out eleven months from the Army, what name did you go by?—A. The same name.

Q. You kept your own name?—A. Yes, sir; I kept my own name. Senator WARNER. That is all.
(Witness excused.)

TESTIMONY OF WILLIAM JACOB RAPPE.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. What is your name in full?—A. William Jacob Rappe.

Q. Do you belong to the Twenty-sixth Infantry?—A. Not any more; but I have been.

Q. You were a member of that regiment?—A. Yes, sir.

Q. Are you in the Army now?—A. No, sir.

Q. You are out of the service?—A. Yes, sir.

Q. How long have you been out of the service?—A. From the 5th of March.

Q. Since the 5th of March?—A. Yes, sir.

Q. How did you happen to be discharged at that time?—A. Through a six months' law of going to the islands.

Q. Your term of enlistment was to expire within six months?—A. Yes, sir.

Q. And your regiment being ordered to the islands, you were discharged?—A. Yes, sir.

By the CHAIRMAN:

Q. You were not willing to reenlist?—A. I have not decided yet. I may reenlist and may not.

Q. Is that alternative given usually—if you reenlist you go forward with the troops, and otherwise you remain behind?—A. Yes, sir; I had my privilege to reenlist and go forward to the islands, and I took my discharge out of the service.

By Senator FORAKER:

Q. And you are now discharged since March 5 of this month?—A. Yes, sir.

Q. Since the 5th of this present month?—A. Yes, sir.

Q. Were you discharged after you came here?—A. No, sir: the day I started.

Q. You were discharged the day you started?—A. Yes, sir.

Q. Were you with your regiment at Brownsville last year?—A. Yes, sir.

Q. What company did you belong to?—A. M Company, of the Twenty-sixth.

Q. How long have you been in the Army?—A. Two years.

Q. After the time you were discharged?—A. Two years, six months, and eleven days.

Q. Two years?—A. Yes, sir; two years, six months, and eleven days.

Q. So that you were serving your first enlistment then?—A. Yes, sir.

Q. You belonged to Company M. How long were you with that company at Brownsville?—A. I guess a little over a year and a half.

Q. Do you remember the date when you left there?—A. I think it was the 5th of June—the 6th of June.

Q. The 5th of July, was it not?—A. Yes, sir; the 5th of July.

Q. Of 1906?—A. Yes, sir.

Q. Your battalion left?—A. Yes, sir.

Q. You went away with the battalion?—A. Yes, sir.

Q. You did not remain behind with that detachment which we are told about?—A. No, sir.

Q. Did you go there with your regiment?—A. Yes, sir.

Q. How long were you there, altogether?—A. I guess about a little over a year and a half.

Q. A little over a year and a half; yes. State whether or not while you were there you had opportunity to go about over the city and get acquainted with the people to any extent.—A. Yes, sir; I had.

Q. Tell whether or not you remember about the announcement of the order that your battalion was to leave, and this battalion of colored men from the Twenty-fifth Infantry was to take the place of your battalion.—A. Yes, sir; I heard the order.

Q. That was announced some time before you left, was it not?—A. Yes, sir.

Q. Can you tell us about what time that first became known at Brownsville?—A. It may have been, I guess, a month or two.

Q. Tell us whether or not, after that became known, that you were to leave and the colored battalion was to come, you heard any expressions of sentiment among the citizens of Brownsville in regard to that proposed change.—A. Yes, sir. I heard a policeman say in Weller's saloon that if the colored soldiers came there, all they had to do was to kill a couple of them and you would get rid of them again.

Q. What policeman was that, if you can tell us?—A. I can't remember the name. We called him "Vic." I don't know his name.

Q. Was that Fernandez?—A. Yes, sir.

Q. Vic. Fernandez?—A. Yes, sir.

Q. In Weller's saloon. Where is that saloon located?—A. That is right on Elizabeth street, right opposite—

Q. On which side as you go out of the gate and go up the street?—A. On the right-hand side.

Q. How far from the gate going into the reservation?—A. His saloon now is the second door. It used to be in the middle of the block, but now it is the second door from the corner. I can't name the name of the street; a little railroad runs down by there.

Q. What time was it and under what circumstances did he make that remark? Just tell us what he said and how he came to say it.—

A. I walked in Weller's saloon, and there was a bunch of men talking there together, and we remarked, "We are going to leave you, and you are going to get colored soldiers," and he said, "The colored fellows will have to behave themselves or we will get rid of them, and all that we will have to do is to kill a couple of them and get rid of them again. We don't want them here."

Q. How many people were standing about to hear that remark?—A. There may have been a dozen. I couldn't say. There were a number of people there.

Q. What were you doing in that saloon?—A. I went in to get a glass of beer.

Q. Did you hear anybody else talk about that subject?—A. Yes, sir; a man by the name of Moore, from the Miller Hotel.

Q. Mr. Moore, of the Miller Hotel?—A. Yes, sir; he came into the kitchen when I was there?

Q. Into the kitchen?—A. Yes, sir; and he got to talking, and he said, "All we have got to do is to kill a couple of those niggers if they don't behave themselves."

Q. That was Moore, of the Miller Hotel. And who was there besides yourself?—A. Rimmel and Fisher and myself.

Q. They were the cook and the assistant cook, and you were what?—A. Dining-room orderly.

Q. Dining-room orderly?—A. Yes, sir.

Q. You had to take care of the dining room?—A. Yes, sir.

Q. And you happened to be in there at that time?—A. Yes, sir.

Q. And heard this remark?—A. Yes, sir.

Q. What was he doing there?—A. Trying to buy some fruit.

Q. Did you hear anybody else talk on that subject?—A. No more than among the Mexicans. I have been going around the place like that, and they would talk to me, that the niggers were not going to stay there, that they didn't want them there.

Q. State whether or not you had opportunity to observe, and whether you did observe, whether this sentiment was pretty general or not in that community.—A. Yes, sir; it was general all through the city.

Q. Now, tell us how the men of the Twenty-sixth got along at Brownsville during that time you were there. Did you have any trouble or not?—A. Yes, sir. I and a friend of mine went down the street one day—we were out having a good time—and at Crixell's saloon they were playing roulette, and we got to playing there, and we kind of got the best of those fellows, and one of them got up and pulled out a gun at me.

Q. This was in Crixell's?—A. Yes, sir; in the White Elephant, in the market house.

Q. Crixell's saloon has a gambling house behind?—A. Yes, sir.

Q. He had a roulette table in there?—A. Yes, sir.

Q. And you and your friend were in there?—A. Yes, sir; we were playing roulette.

Q. And how did the game go?—A. We got a little winner of them, and they got mad, and this fellow jumped up and pulled out a gun at me, and I grabbed him by the throat, and we threw them out in the street; and then we went out, and then a cop came right up to this friend of mine and hit him over the head with a six-shooter, and as soon as he did that there was about a half a dozen more policemen came over, and they all commenced pounding on his head, and I seen the blood flowing over his blouse, and of course I jumped in and tried to help him; and after that they had him knocked out, and handcuffs on him, and they put him on a little cart—a little donkey cart—and carried him to the jail; and I sat down on a

little bench outside there, and after a while they came back and got me and put me in jail. They came back and got me.

Q. They put you in jail?—A. Yes, sir.

Q. You had not done anything to this man except beat him at roulette and then grab him by the throat?—A. No, sir.

By Senator OVERMAN:

Q. You had been gambling?—A. Yes, sir.

Q. It is against the laws of Texas to gamble?—A. It didn't seem so from the way they had been running things there.

Q. Do you not know that it is against the law to gamble down there?—A. It may be; but the saloons are all wide open.

By Senator FORAKER:

Q. They are all wide open?—A. Yes, sir.

Q. Did you ever see a policeman gambling there?—A. Yes, sir.

Q. It is a part of their daily business there?—A. Yes, sir.

Q. You have gambled with them?—A. Yes, sir; I have.

Q. Tell us the names of some of the men that you have gambled with?—A. I don't know. "Chief of the Cactus," we called one of them.

Q. What was his name?—A. I couldn't tell you his name, "Chief of the Cactus;" but he is a big policeman.

Q. What gave rise to that title, "Chief of the Cactus?" That is a rather euphonious title.—A. I couldn't tell you his name. We went by the nicknames of them down there. He limps. He has quite a limp in one leg.

Q. Can you tell us anything about his history? What gave him that title?—A. No more than this man Watson. I think he is coming up here—

Q. Watson?—A. Yes, sir; I think some years ago he was the man that shot him, or he claimed that he shot him. I don't know whether he did or not. It was some years ago, when he was down there before.

Q. This man shot Watson?—A. No, sir; Watson shot him in the heel, I think.

Q. In the heel?—A. Yes, sir; or some place in the foot.

Q. That is where Achilles was shot, I believe. Going back, now, you were in this saloon with a comrade?—A. Yes, sir.

Q. What is his name?—A. Louis Cyzyack.

Q. Louis Cyzyack?—A. Yes, sir.

Q. We have heard of him a great deal in the last day or two. He belonged to your company, did he?—A. Yes, sir.

Q. And you and he were in there playing a game of roulette?—A. Yes, sir.

Q. Were you both playing?—A. Yes, sir.

Q. And with whom or against whom were you playing?—A. Two men of Texas. We didn't know them. They were tall men, anyway; much taller than I was.

Q. You were in this game with them?—A. Yes, sir.

Q. Then what happened?—A. We were playing roulette, and we beat them on a bet, and then they both got mad, and this man commenced to growl very much.

Q. Who got mad?—A. These strangers.

Q. These strangers got mad?—A. Yes, sir; and one of them pulled a gun out at me, and I grabbed him by the throat and threw him over.

Q. He pulled a gun out at you?—A. Yes, sir.

Q. What had you done that he should pull a gun out at you?—A. Nothing; only beating him on the game.

Q. What did you do to him?

Senator WARNER. I submit, with all due deference, that we are wasting a good deal of time going into these minutiae.

Senator FORAKER. Yes; but I was doing that in anticipation.

Senator WARNER. You had better wait and see what I will do. I have never gone off into things in this way. I simply suggest that we are going into things that are unnecessary.

By Senator FORAKER:

Q. Well, the result of this was there was a row, and this man, your comrade, was struck over the head with what?—A. With a six-shooter.

Q. And was he resisting arrest?—A. Not before he was struck.

Q. What is that?—A. Not before he was struck. After he was struck, of course he showed fight; after a man came and hit him with a gun on the head.

Q. He did not make any resistance until after this hitting?—A. No, sir; he never gave him no warning; just came and hit him.

Q. Was he raising a disturbance?—A. No, sir; only me and him going along the street.

Q. You had come down?—A. Right out of the saloon.

Q. And were returning to the post?—A. Yes, sir.

Q. Now, we will pass that by. You think there was unnecessary force used, I suppose. How many times was he struck?—A. The boy, I guess, got at least a half a dozen scars in his head.

Q. Half a dozen scars?—A. Yes, sir.

Q. What was he struck with?—A. The butt of a revolver or six-shooter, as we usually call them.

Q. The police all carried revolvers?—A. Yes, sir.

Q. Can you tell us of any other difficulties?—A. Yes, sir.

Q. That your men had?—A. A man of our company, a man by the name of Lewis Parker, was struck right across the head, here [indicating].

Q. Was he struck by a policeman?—A. Yes, sir.

Q. Just in your own way, tell us what he had been doing.—A. I don't know. I just seen him the next morning.

Q. You were not present?—A. No, sir.

Q. Can you tell us of any others that were arrested with a revolver?—A. Sergeant Shupolsky also was struck.

Q. He was a sergeant?—A. Yes, sir.

Q. He was struck over the head?—A. Yes, sir.

Q. With a revolver?—A. Yes, sir; he got a gash right across here, too [indicating].

Q. Anybody else?—A. That is about all in our company.

Q. That is about all in your company?—A. Yes, sir.

Q. That would seem to be the usual way of making an arrest down there?—A. Yes, sir.

Q. To start in with a whack over the head?—A. Yes, sir; unless a man had a few of the fellows with him he wasn't safe at all.

Q. What is that?—A. A man wasn't safe down the street, by himself, at all.

Senator FORAKER. I believe that is all

By the CHAIRMAN:

Q. You were speaking about these threats?—A. Yes, sir.

Q. And about the feeling expressed that they would have to kill a couple of them?—A. Yes, sir.

Q. Did I understand you to say that one of them said they would have to kill a couple of niggers "again?"—A. No, sir; they said they would have to kill a couple of them to get rid of them. They said they didn't behave themselves the last time they were down there.

Q. Did they instance any place where they had done that before?—A. No, sir.

Q. I think you said they had colored troops there before?—A. Yes, sir.

Q. Did they allude to that as though they had gotten rid of them in that way before?—A. No, sir; they just said they would have to kill a couple of them to get rid of them.

Q. Was there anything said about whether they took any such course to get the colored troops away before, and run them out?—A. No, sir.

Q. You have said that you and your comrade went out to have a good time.—A. Yes, sir.

Q. Were you drinking at all, you and your comrade?—A. We were drinking a little.

Q. You were drinking some?—A. Yes, sir.

Q. I understand that when you were playing roulette you were playing with strangers?—A. Yes, sir.

Q. Who commenced the fighting, the striking?—A. The strangers.

Q. The strangers?—A. One of them pulled a gun.

Q. One of the strangers pulled a gun?—A. Yes, sir.

Q. So that it was not a policeman at all who commenced the fight?—A. No, sir; that was in the saloon.

By Senator WARNER:

Q. Just one question that I want to ask. This conversation that you heard with Mr. Moore of the hotel was in the presence of the first and second cooks?—A. Yes, sir.

Q. They were present?—A. Yes, sir.

Q. It was the time that Mr. Moore was there to buy some dried fruits?—A. Yes, sir.

Q. To see if they had any for sale?—A. Yes, sir.

Q. What is it you said Moore said?—A. Mr. Moore said, "We don't want them colored people around here at all;" he said, "We are going to get them out of here."

Q. What else?

Senator FOSTER. That is not what you stated before.

By Senator WARNER:

Q. What else?—A. He said, "We will kill a couple of them and get them out. We don't want them down here in Brownsville at all."

Q. Is that the language which he used?—A. Something like that—it has been so long ago. It was in that form.

Q. Whom did you ever tell this to before?—A. Nobody.

Q. You never told it to anyone?—A. No, sir.

Q. Can you imagine how you happened to be brought here, then?—A. No, sir; I can not.

Q. I can not. Now, I would like to know if you can give us distinctly what was said there? Give it to us as near as you can.—A. No more than he came in, and we got to talking about us people leaving there. We said we were going to leave there and they were going to get colored people there; and he said, "We don't want them here;" and also he said, "We will kill a couple of them or get them out some way."

By Senator OVERMAN:

Q. He said about the same thing that Fernandez said?—A. They mostly all made the same remark all through Brownsville. They always said that.

By Senator WARNER:

Q. Is not it the identical remark that Fernandez made?—A. All through Brownsville you could hear that remark: "We won't have them nigger soldiers here; we will kill them niggers."

Q. All through Brownsville you heard what remark?—A. "We don't want them here," and "We will kill the niggers or get them out some way."

Q. That was a common remark all through the streets?—A. Yes, sir.

Q. By men, women, and children?—A. Yes, sir.

Q. About how many hundreds or thousands of people did you hear say that, do you think?—A. I never traveled the town very much.

Q. How many hundreds would you say you heard say that?—A. I couldn't say that.

Q. Just approximately?—A. I couldn't mention the amount of people. It was a common remark.

Q. Walking along the street you would hear them say, "We are going to kill some of them niggers?"—A. In the shacks of the Mexicans you would hear that.

Q. You said all over town?—A. It was mostly a general remark.

Q. You would hear it in a church?—A. No, sir; I never went to church.

Q. You have never been to church?—A. No, sir.

Q. But all other places you heard it?—A. Yes, sir.

Q. You heard it in the stores?—A. Yes, sir; and so far as the saloons and houses are concerned.

Q. You heard it in the houses?—A. In the shacks of the Mexicans.

Q. Did you go into the shacks of the Mexicans?—A. Yes, sir.

Q. About how many shacks did you go into?—A. Quite a number of them.

Q. "Quite a number" is indefinite. A hundred?—A. Now, I don't know whether I was in a hundred or not, but I guess I was; nearly that many.

Q. Be a little moderate about it. You went in a hundred, and in

each one of these you heard this?—A. They just made a remark that they did not want the niggers there—the Mexicans.

Q. The women talked about killing the niggers?—A. The women didn't talk, but the men said they didn't want them there.

Q. The shacks you went into, there were women there?—A. Yes, sir.

By Senator FOSTER:

Q. You speak Mexican?—A. Yes, sir.

By Senator WARNER:

Q. You went into the shacks where the women were?—A. Yes, sir.

Q. And the women were regretting the Twenty-sixth going away?—A. Yes, sir.

Q. And they would rather have the Twenty-sixth there than the negroes?—A. Yes, sir.

Q. You did not think that was uncomplimentary to the negroes, did you?—A. No more than that they didn't want them there.

Q. That they preferred the white troops to negroes, you did not think that that was uncomplimentary to the negroes, did you?—A. I don't know; the people down there ain't much better, I guess, than negroes.

Q. That is your judgment, that the people down there are not much better than negroes?—A. No, sir.

Q. Yet you associated with them in the shacks?—A. Yes, sir; there was nobody else there to associate with.

Q. Yes; nobody else. You want to be moderate in your statement, I see. Now, could you tell us about how many people there are in Brownsville?—A. No, sir; I could not.

Q. Do you know anything about the size of the town?—A. No, sir.

Q. Were there 2,000 people, would you think, about?—A. I couldn't tell the number of population there at all.

Q. Or 20,000?—A. I couldn't tell. I don't know.

Q. Mostly white or mostly Mexican?—A. Mostly Mexican.

Q. Of a very low order?—A. Yes, sir.

Q. Of a low order of intelligence and morals?—A. Yes, sir.

Q. I do not understand you.—A. Not very intelligent.

Q. From your association, not very moral, I suppose; from your association there?—A. No, sir.

Q. What did you say?—A. No, sir.

Q. You never heard but one conversation with Moore?—A. That is all.

Q. In the presence of the company cooks?—A. That is all I heard.

Q. And you happened to be in there at that time?—A. Yes, sir.

Q. And now, again, please—the cooks have testified here. If you please, give us the exact words again that you heard, as near as you can.—A. No more than he just said that. We got to talking about the Twenty-sixth going away and how they were going to get colored people there, and he said: "We don't want the colored people here, and we will get them away some way, if we have to kill a couple of them." and remarks like that. He had the killing in, anyway—about killing the negroes.

Q. Killing the negroes. How did he get it in?—A. Just that they wanted to get rid of them after we left. The people said they didn't

want any negroes there. and we told them that we were going to leave and that the negroes were coming there.

Q. Who was he talking to—not you?—A. No, sir.

Q. He was talking to Fisher and Rimmel?—A. Yes, sir.

Q. The first and second cooks?—A. Yes, sir; and I was washing pots and pans in there.

Q. Now, is not this what he said, speaking with Mr. Rimmel, in substance, that they didn't like the colored troops and they were going to get rid of them some way?—A. That is what I said. He said that they didn't like colored troops and didn't want them there and were going to get rid of them if they have got to kill some of them.

Q. Yes; and is it not a fact, upon reflection, that they did not say anything about killing?—A. He mentioned the killing.

Q. Now, is not this what happened in the cook room there, that they got to talking about the change, and Moore said that he didn't like a nigger anyway, and he said they wouldn't be very long getting rid of them?—A. It was said that way; yes, sir. He said they didn't like the niggers down there.

Q. Is that what he said, what I have read to you?—A. I don't know; something like that. He said they would get rid of them if they had to kill some of them.

Q. He put the killing in?—A. Yes, sir.

Q. You are quite clear about that?—A. Yes, sir.

Q. And he was talking there with Reynolds or Fisher at that time?—A. Them two, there; and I was washing dishes and pans and pots.

Senator WARNER. I do not think that I want to ask the witness any further questions.

By Senator FOSTER:

Q. Where did you learn how to speak the Spanish language?—A. At Brownsville—Brownsville and Ringgold.

Q. Do you speak it fluently?—A. I can make out, that is about all. I can't speak a whole lot of it.

Q. How is that?—A. I can understand more than I can speak.

Q. You can understand it well, can you?—A. Fairly well. I can't understand everything, either.

Q. Can you speak it at all?—A. Yes, sir; I can.

Q. Can you speak it sufficiently well to carry on a conversation?—A. No, sir.

Q. I understood you to say you visited about a hundred shacks down there?—A. I didn't mention any amount of them. I have been in quite a number of them, though.

Q. How many of them?—A. That would be a hard thing for me to say, how many.

Q. Who lived in those shacks?—A. They were all Mexican names, and I couldn't mention their names.

Q. Mexicans entirely?—A. Yes, sir.

Q. Mexican men and women?—A. Mostly women.

Q. Mostly women?—A. Yes, sir.

Q. You saw very few men, then, did you?—A. Very few.

Q. Then the expression of hostility to the coming of the negro troops came from the women, did it?—A. No, sir.

Q. It came from the men?—A. Yes, sir.

Q. Did you visit any of the Mexican houses there? Did you go into them?—A. No more than these shacks I am speaking about.

Q. All the Mexicans do not live in shacks, do they?—A. That is about all that is down there; the Mexicans live in them.

Q. All the Mexicans live in shacks?—A. Yes, sir.

Q. Did you ever visit a Mexican family living in a house there?—A. Yes, sir; one that you may call a house—a one-story little frame house.

Q. That is the only one you visited?—A. These little frame houses; I visited them.

Q. What is that?—A. These little frame houses. We call them all shacks—little frame buildings.

Q. Did you visit an American family while you were there—go into the houses?—A. No, sir.

Q. Did you ever visit the house of a respectable family while you were in Brownsville?—A. No, sir.

Q. You do not mean the committee to understand that you did not associate with respectable people, do you?—A. You couldn't get in with anybody that was sociable down there.

Q. You could not find anybody who was respectable down there?—A. No, sir. There were some respectable people in there, but they wouldn't have no time for a soldier.

Q. What is that?—A. They wouldn't have no use for a soldier.

Q. You seem to have visited the saloons right often?—A. Yes, sir.

Q. You visited the White Elephant?—A. Yes, sir.

Q. Quite frequently, did you not?—A. No, sir.

Q. You gambled right often down there, did you not?—A. When I had a little money I did, which wasn't very often.

Q. You had a little money at the end of every month?—A. Yes, sir.

Q. Then you would go down in these gambling places, would you not?—A. Yes, sir; sometimes, and sometimes I didn't.

Q. What was your favorite gambling game?—A. Poker.

Q. Whom did you play poker with?—A. I played that in the company.

Q. Did you ever play poker with Mexicans?—A. Yes, sir; I did.

Q. Where did you play poker with them, in their shacks?—A. No, sir; it was in a little saloon.

Q. A little Mexican saloon?—A. Yes, sir.

Q. You played poker in there?—A. Yes, sir.

Q. Mexicans are pretty good poker players?—A. Pretty fair; some pretty good ones down there.

Q. Then, what other gambling games did you play?—A. Roulette and dice.

Q. Where did you play roulette?—A. That is just a chance game. I don't like that so well.

Q. What do you say?—A. That is more of a chance game, and I don't like that so well.

Q. Poker is quite a scientific game?—A. Yes, sir; more so than the others.

Q. And roulette is a chance game?—A. Yes, sir.

Q. What other games did you play?—A. Craps, and most any kind of a game a man could imagine, down there, to play.

Q. What kind of games did you play?—A. Mostly poker, and dice or craps.

Q. Craps?—A. Yes, sir.

Q. Would you consider that a scientific game, or a game of chance?—A. No, sir; that is a game of chance.

Q. That is a game of chance?—A. Yes, sir.

Q. With whom would you play that?—A. Up in the saloons.

Q. In the alleys? Did you ever play craps out in the street?—A. No, sir.

Q. Always in a saloon?—A. In the saloons, and in the quarters.

Q. Whom did you play craps with in the saloons?—A. Most anybody that was there.

Q. With the Mexicans?—A. Yes, sir; if there were Mexicans there; anybody at all.

By Senator FORAKER:

Q. With the citizens of Brownsville, I suppose, generally, would you?—A. Yes, sir.

By Senator OVERMAN:

Q. You mean the citizens you associated with?—A. All kinds of them.

By Senator FOSTER:

Q. You mean your class of citizens that you associated with?—A. All kinds of classes.

Q. What other gambling games did you play?—A. Well, there was any kind of gambling down there that a man can mention.

The CHAIRMAN. Do not overlook the game of faro entirely here. We had better examine him on that.

Senator OVERMAN. Did you play three-card monte?

By Senator FOSTER:

Q. Did you ever play three-card monte?—A. Yes, sir; they played monte.

Q. Did you ever play faro?—A. No, sir; but it is down there.

Q. There was a good deal of drinking going on in these gambling games?—A. Well, a man had to buy his own drink, mostly. Every now and then the man that ran the game might buy you a beer.

Q. What is your favorite drink?—A. Beer.

Q. Did you ever drink whiskey?—A. Not very much, sir.

Q. How many drinks of beer would you consider moderate to drink at one sitting over a game of poker?—A. I couldn't tell you how many I would take.

Q. About how much do you think that a man of your capacity would take?—A. I could drink quite a few in a day or night.

Q. They gambled in the day and night down there, did they?—A. Yes, sir.

Q. That is the occupation, or the pastime, rather, that you and Cyzyack were engaged in that day—gambling?—A. That day; yes, sir.

Q. How long had you been gambling there?—A. We had just went out in the morning, and it was in the afternoon that this thing happened.

Q. You gambled, then, from the morning till the afternoon?—A.

Not very much. We hadn't much money; but he was a lucky monte player.

Q. What?—A. He was a lucky monte player, and if we would get short he would go to work and play monte, and then we would play roulette, and we just stumbled into this place.

Q. He was a lucky monte player?—A. Yes, sir.

By Senator OVERMAN:

Q. Did you ever gamble in any other towns than Brownsville?—A. Yes, sir.

Q. Where?—A. I gambled at home; gambled most any place.

Q. Tell us what other places.—A. In Lancaster, Pa., and Philadelphia, and all around.

Q. So that they gamble in other places? Have you ever gambled in Cincinnati or Chicago?—A. No, sir; not in that kind of business.

Q. Have you ever been in Charlotte, N. C.?—A. No, sir.

Q. Have you ever been in Philadelphia?—A. Yes, sir.

Q. Have you ever been in Connecticut?—A. No, sir.

Q. So that almost everywhere you go they gamble, do they?—A. Yes, sir.

Q. You gamble whenever you get a chance?—A. Yes, sir.

Senator OVERMAN. Everywhere he goes they gamble.

Senator FORAKER. There are some other people the same way.

By Senator FOSTER:

Q. You are quite a professional gambler, are you not?—A. No, sir; I am not.

By Senator WARNER:

Q. You are quite an all-around sport?—A. I like to chance my money when I can do it.

By Senator FOSTER:

Q. Do you go to horse races?—A. Once in a while; yes, sir.

Q. You and Cyzyack had been gambling from morning until the evening?—A. Yes, sir; going around; not gambling all the time, but going around the town, and if we ran a little short of money, 25 cents Mexican, he would go into a monte game, and we would try to get some; about a peso.

Q. Every time that you would run short in these other gambling games he would go out and recoup on monte, and then you would go back and try it again at this gambling house?—A. There was all kinds of gambling shacks. They were full of them down there.

Q. Now, you mentioned the name of Lewis Parker?—A. Yes, sir.

Q. Do you know anything about that man having any trouble, anything about the parties to the difficulty?—A. No, sir.

Q. Do you really know that he was hit over the head, except what was told you, by an officer?—A. What he told me and Sergeant Huron; and the next day I met him, and he had a gash across his forehead.

Q. Huron was a sergeant of the company?—A. Yes, sir.

Q. How old are you?—A. Thirty-three years old.

Q. How long had you been in the Army?—A. Two years, six months, and eleven days.

Q. What was your business before you went into the Army?—A. Butcher and plasterer.

Q. Where is your home?—A. Lancaster, Pa.

By Senator WARNER:

Q. You say they played craps in quarters?—A. Yes, sir; on the porches and in the quarters.

Q. And in the quarters?—A. Yes, sir.

Q. It was a common thing among the men to play craps?—A. Yes, sir; on pay day.

Q. On pay day; just craps all around the quarters there?—A. Yes, sir.

Q. I did not know that they allowed gambling among the men?—A. They don't, if you are caught at it.

Q. But on the porches? The porches are pretty public places, are they not?—A. The rear of the quarters; the officers can't see you in the rear there.

Q. The noncommissioned officers could? No; I don't expect they could if they turned around?—A. No, sir.

Q. But they played every pay day?—A. Yes, sir.

Q. At pay day it was just a general day, after pay day came, to shoot craps?—A. Until the money was gone.

Q. And to play roulette?—A. Yes, sir; in the town.

Q. And to drink something, until the money was gone?—A. Yes, sir.

Q. And then settle down until the next pay day?—A. Yes, sir.

Q. That was the round, the monthly round?—A. Yes, sir.

By the CHAIRMAN:

Q. Drinking and gambling in the quarters is contrary to the rules, is it not?—A. Yes, sir.

By Senator FRAZIER:

Q. When this comrade of yours was struck in the head there, and you and he were arrested, were you convicted—tried before a court and convicted of anything?—A. Yes, sir; not before a court, but before a justice of the peace.

Q. What were you convicted of?—A. He was convicted of drunk disorder.

Q. Drunk disorder?—A. Yes, sir.

Q. What were you convicted of?—A. Trying to help him from arrest.

Q. Resisting an officer?—A. No, sir. I was there, and when I seen the blood flowing off his head, and everything, I run in and told them—I said, "Don't kill this man;" and afterwards they got a little cart and hauled him off to jail; and I sat down on a bench there, and then they came back and got me.

Q. He was convicted in the court of the justice of the peace?—A. Yes, sir.

Q. And you were convicted also of being drunk and disorderly?—No, sir; nothing more than just going in there to help him.

Q. What sentence did they put on you?—A. Nothing; but they give us \$7.28 apiece fine.

Q. They gave you \$7.28 apiece fine?—A. Yes, sir.

Q. When you heard that conversation in the kitchen, when you heard Moore make this statement to the cook and the second cook, did he use this language, that they would kill a couple of them if they didn't behave themselves?—A. He made a remark—I don't know, he had the killing in there, they would kill some of them niggers; that they didn't want them there.

Q. Did he not say, "If they don't behave themselves?"—A. I don't know; I know that he had that killing some of the niggers in there; that they didn't want them there.

Senator FRAZIER. That is all.

(Witness excused.)

TESTIMONY OF MATIAS G. TAMAYO.

By Senator FORAKER:

Q. Please give us your name in full.—A. Matias G. Tamayo.

Q. Where do you reside?—A. Right now I reside at Fort Brown.

Q. At Fort Brown?—A. Yes, sir.

Q. Do you live in the fort or in the city of Brownsville?—A. I live in the fort.

Q. You live in the fort?—A. Yes, sir.

Q. How are you occupied there, if at all?—A. Right now?

Q. Yes.—A. Carpenter in Brownsville.

Q. Carpenter?—A. Yes, sir; at Brownsville, Tex.

Q. For the fort, do you mean?—A. No, sir; for Brownsville.

Q. For Brownsville?—A. Yes, sir.

Q. That is, your business is the business of a carpenter?—A. Right now; yes, sir.

Q. Are you employed in any way by the Government?—A. Yes, sir; I have been employed for six years by the Government as a scavenger.

Q. I mean are you now?—A. No, sir.

Q. You were the scavenger at Fort Brown, were you?—A. Yes, sir.

Q. And you held that place for six years?—A. Yes, sir.

Q. Where were you born?—A. At Brownsville, Tex.

Q. Lived there all your life?—A. Yes, sir.

Q. What nationality are you?—A. Mexican.

Q. Wholly Mexican?—A. Yes, sir.

Q. A full-blooded Mexican?—A. Yes, sir.

Q. Your father and mother?—A. Both Mexicans.

Q. They live there in Brownsville, do they?—A. Yes, sir.

Q. Did they ever live in Mexico?—A. Yes, sir; I believe my father and mother were born in Mexico.

Q. Both across the river somewhere in Mexico?—A. Yes, sir.

Q. And you are how old, did you say?—A. Thirty years old.

Q. Then, as long ago as six years, when you were 24, you became scavenger for the fort?—A. In 1900, the 30th of November.

Q. Were you employed as scavenger at Fort Brown in August of last year?—A. No, sir; in November.

Q. No; I mean were you scavenger in August of last year?—A. Yes, sir.

Q. At the time when there was a shooting affray?—A. Yes, sir.

Q. Where were you at the time of that shooting affray, at Fort Brown?—A. I was inside of Fort Brown.

Q. Were you engaged at that particular time, on that night, as scavenger?—A. Yes, sir.

Q. Tell us where you were and what occurred, as nearly as you can.—A. I was back of B Company's kitchen, right at the corner of the barracks, while I heard the shooting at Brownsville. I heard two shots, and then I heard all the rest of the shooting.

Q. Now, at what time did you start on your rounds as scavenger? Did you go around every night?—A. Every night I had to go around between half past 10 and 11 o'clock.

Q. It was your business to go to the sinks?—A. To the sinks and ash cans.

Q. To the ash cans, and so forth?—A. Yes, sir.

Q. Where did you start from on that?—A. I started from the quartermaster's corral and went to the post hospital.

Q. Yes.—A. From the post hospital to the guardhouse, from the guardhouse to the laundry quarters, where I live now. I can show them to you.

Senator OVERMAN. Do you understand the map there?

The WITNESS. Yes, sir.

Senator FORAKER. Where is the corral?

(The map was here explained to the witness by Senator Overman.)

The WITNESS. The wagon shed—I think the corral is right here. Here is the corral right here [indicating].

The CHAIRMAN. Right near the pump house.

The WITNESS. This is the wagon shed right here [indicating].

By Senator FORAKER:

Q. What sort of vehicle did you have to use in your duty as scavenger?—A. An iron cart.

Q. With an iron bed, you mean, and an iron lid?—A. Yes, sir; and one mule.

Q. One mule?—A. Yes, sir.

Q. Where did you keep it in the daytime?—A. I used to keep it right outside here; right along here, outside this wall of the house here [indicating].

Q. Did you do all your work in the nighttime?—A. Yes, sir; by myself.

Q. By yourself. What time did you start that night from the corral on your work?—A. I started about a quarter to 11.

Q. Tell us now where you went, indicating on the map.—A. I started right here and came along here and came to the post hospital [indicating].

Senator FORAKER. The post hospital is down to the left there.

Senator OVERMAN. Here is the hospital right here [indicating].

The WITNESS. That is it; this place here [indicating].

By Senator FORAKER:

Q. And you were coming down to the hospital?—A. Down this road here, and then to here [indicating].

Q. Did you have to stop at the hospital?—A. Yes, sir; I used to stop there about ten minutes.

Q. Then where did you stop next?—A. I came along here [indicating].

Q. What is the next building?—A. The guardhouse. Here is this road here [indicating].

Q. The road is not marked; but there is a road running around in rear of the guardhouse?—A. Yes, sir.

Q. And you came on that road in rear of the guardhouse. Did you stop at the guardhouse?—A. Yes, sir; I stopped at the guardhouse.

Q. Then where did you go?—A. I went to the laundry quarters; I believe it is here. That is marked on that. That is where the non-commissioned officers stop. I think this is where I live, right here [indicating]. They used to call them the laundry quarters. The commissary-sergeant lives opposite the ice plant.

Q. We know that the map is not correct, so that we will not stop for that. You stopped at the laundry quarters; then where did you go from there?—A. To the company barracks, right here [indicating].

(At this point Senator Overman further explained the map to the witness.)

By Senator FORAKER:

Q. Now tell us how you came.—A. I worked here about ten minutes.

Q. Wait a minute. Is there a road along the wall, between the wall and the barracks?—A. Yes, sir; right here [indicating].

Q. There is a road here?—A. Right there; yes, sir.

Q. Not shown on the map. All right.

The WITNESS. From here I came to B barracks.

Q. You stopped at B, then at C?—A. Right at the entrance to the barracks. I worked there for about ten minutes, and when I got through there I was feeling a little thirsty and I went in the company to get a drink of water, and I came out and jumped on my cart and drove about here, say [indicating].

The CHAIRMAN. What time was that?

The WITNESS. It was pretty near 12 o'clock when I drove to this place here.

By Senator FORAKER:

Q. What did you do after that time?—A. Right here I had an ash can to pick up.

Q. An ash can?—A. Yes, sir.

Q. That was back of the kitchen?—A. Yes, sir; right here [indicating on map].

Q. Did you stop?—A. I stopped right there and took hold of the ash can and emptied it on the cart.

Q. That is, you got off your cart, or were you on the cart?—A. No, sir; I was off the cart.

Q. Got down on the ground and picked up a can and emptied it?—A. Yes, sir; and then I set it on the ground. I heard the first shot.

Q. Where was that fired from?—A. I think it was fired from right along this alley here [indicating on map].

Q. What did you do after that?—A. I heard a lot of shooting.

Q. Then what did you do?—A. I put my lantern out as soon as I heard the first two shots.

Q. Then what did you do?—A. I stood for a little while facing the place where the firing was going on.

Q. Yes.—A. And at the same time I could see the galleries, right here [indicating on map] and the place where the firing was taking place, right in front of me.

Q. What was taking place?—A. The firing taking place.

Q. You are not pointing to the town?—A. No, sir; I am not [pointing to the map].

Q. The firing was in town?—A. Yes, sir.

Q. Did you see any men moving about there before that first shot was fired?—A. No, sir.

Q. Did you see any lights about the barracks?—A. No, sir.

Q. Was there any noise about, anywhere?—A. No, sir; everything was quiet.

Q. Everything was quiet?—A. Yes, sir.

Q. Did you see any men moving about inside the wall near the sink of B Company?—A. No, sir.

Q. Did you see anybody jump over the fence or the wall there in rear of B Company, opposite the mouth of Cowen alley?—A. No, sir.

Q. Or at any other place?—A. No, sir.

Q. If there had been any shots fired from the upper windows of B, C, and D barracks, were you in a situation to have seen them?—A. Yes, sir; I could very easily have seen them, because I could see the barracks here—around right here in front of me [indicating on map].

Q. Now, were any shots fired from the barracks?—A. Not while I was there; no, sir.

Q. How about the first shots?—A. I heard the first shots and then about 20 more shots, and then I drove off.

Q. When they commenced shooting, then you left immediately?—A. I went away immediately.

Q. With your cart?—A. Yes, sir. At the same time when I heard this first shot I heard a few bullets going into the post over the administration building.

Q. That is important. Which way were they going?—A. They went up into the air.

Q. Went up in the air?—A. Yes, sir.

Q. Could you tell which way?—A. Across that way [indicating on map].

Q. Across that way, you thought?—A. Yes, sir.

Q. Then where did you go with your cart?—A. I went toward the administration building, but before I got to the administration building I stopped for a few seconds in front of this company, D [indicating on map].

Q. That is D Company?—A. Yes, sir.

Q. How did you come to stop there?—A. I stopped there to see the men, because the first sound of the bugle had already gone.

Q. What?—A. The first bugle.

Q. You heard the first bugle; when was that?—A. As soon as I jumped from my cart I heard the first bugle call.

Senator FOSTER. Where was that?

The WITNESS. And right after that I heard all the bugles at the barracks.

Q. When the firing commenced and the bugles commenced what happened in the barracks?—A. Everybody commenced to get up.

Q. Did they make any noise about it?—A. Yes, sir; lots of noise.

Q. Lots of noise?—A. Yes, sir; getting up and hollering, "Wake up; wake up."

Q. You heard all that in B Company?—A. Yes, sir.

Q. And then you drove your cart down and stopped a few seconds in front of D?—A. Yes, sir.

Q. Was that company forming at the time?—A. No, sir; they were just getting down.

Q. Getting down?—A. Getting down.

Q. Then where did you go?—A. I went right here to the administration building.

Q. Did you have to stop at the administration building?—A. Yes, sir; I used to stop there every night. There were two sinks here in the back part of this building [indicating on map].

Q. You did what?—A. There were two sinks here in the back part of this building.

Q. What did you do when you got to the administration building?—A. I stopped up my wheel. I used to have a chain there.

Q. Yes.—A. I stopped the wheel so that the mule would not run off with the cart, and went in here inside of the administration building.

Q. What did you go inside for?—A. To clean up a couple of sinks in there.

Q. Then what did you do?—A. After I got through with the sinks I came out again.

Q. What did you do then?—A. Emptied the cans and went back and set the sinks back.

Q. Then what did you do?—A. When I came out I stood behind a tree that is at the right-hand side as you go in.

Q. What did you stand behind a tree for?—A. Because they were still shooting.

Q. Up to that time they were still shooting?—A. Yes, sir.

Q. Where was it going on?—A. In town.

Q. Can you tell whereabouts in town?—A. Right along here, I think [indicating on map].

Q. It seemed to be over there [indicating on map]?—A. Yes, sir.

Senator FOSTER. That is in the alley?

The WITNESS. Yes, sir; but the first shots were fired right here [indicating on map].

Senator FORAKER. Yes. Now, you have testified before in this case. I want to read you an affidavit that was made on the 14th day of August, 1906, found at page 75 of Senate Document 155.

(The affidavit referred to is as follows:)

FORT BROWN, State of Texas:

Personally appeared before me, the undersigned authority, one Matias G. Tamayo, scavenger at Fort Brown, Tex., who being duly sworn according to law, deposes and says:

"That at about 12.10 a. m. on the morning of August 14, 1906, he was in rear of the quarters occupied by Company B, Twenty-fifth Infantry; that about this time a shot was fired by some person unknown in the street just outside the wall dividing the military reservation from the town of Brownsville, Tex.; that he could hear the bullet and that it appeared to be going in the direction of the Rio Grande River, about parallel to the above-mentioned wall; that immediately following this one shot a number of other shots were fired, all outside the wall.

"Deponent further says that previous to the shooting he saw no soldiers anywhere in rear of the quarters occupied by the companies of the Twenty-fifth Infantry, and heard no talking or news of any kind; and that he saw and heard no shot or shots from any of the company barracks.

"MATIAS G. TAMAYO.
"Scavenger, Fort Brown, Tex."

Sworn to and subscribed before me this 14th day of August, 1906.

SAMUEL P. LYON,
Captain, Twenty-fifth Infantry, Summary Court.

Senator FORAKER (reading). You testified, as it is given here, as follows:

That at about 12.10 a. m. on the morning of August 14, 1906, he was in rear of the quarters occupied by Company B, Twenty-fifth Infantry.

You remember giving that affidavit?—A. Yes, sir; when the Major asked me what time it was and I told him I didn't know, he said he thought it was about ten minutes after 12, and that is how he got this.

By Senator FORAKER:

Q. You said it was ten minutes after 12?—A. No, sir; I never told him myself it was. He told me he thought it was ten minutes after 12.

Q. To whom did you make your statement?—A. Major Penrose and Captain Lyon.

Q. They reduced it to writing; you did not reduce it to writing yourself?—A. Yes, sir.

Q. They reduced it to writing and asked you to sign it?—A. Yes, sir. After this shot along the wall here, I never made a statement, but I said along Yturria's fence, along here [indicating on map].

Q. Yturria lived on that same alley also?—A. Yes, sir; the same alley. I believe he lives right here.

Q. You made your statement and then they wrote out the affidavit?—A. Yes, sir.

Q. This affidavit, in substance and effect, is correct, is it?—A. Yes, sir.

Q. Now, you testified also before Major Purdy and Major Blocksom. Do you remember that?—A. Yes, sir.

Q. Where did you give that affidavit—at what place?—A. At Mr. Kowalski's office.

Q. Where is that, in Brownsville?—A. Yes, sir.

Q. Do you remember who were present when you gave this statement to Mr. Purdy?—A. Only the stenographer, I think.

Q. Were you shut up together in the room?—A. Yes, sir.

Q. Nobody there to cross-examine?—A. No, sir. Major Blocksom went in the room after I had testified before Mr. Purdy.

Senator FORAKER. This commences as follows:

Matias G. Tamayo was first duly sworn by Maj. A. P. Blocksom.

That is correct, is it?

Senator OVERMAN. He may not understand about the time. This was not the Purdy examination, was it?

Senator FORAKER. Yes, sir. (Reading:)

And upon being examined by Mr. Purdy, testified as follows:

That recital is correct? You were first sworn by Major Blocksom?

The WITNESS. No, sir; I don't think so. I was sworn, but after I got through with my testimony.

By Senator FORAKER:

Q. After you got through?—A. Yes, sir. I was going back and Mr. Kowalski's boy called me back. That was the time Major Blocksom was there.

Q. Mr. Kowalski swore you later also? Were you not sworn in the first place by Major Blocksom and afterwards by Kowalski?—A. I don't remember.

Q. That is not important, perhaps. Was Major Blocksom present when you were examined?—A. No, sir.

Q. Do you remember seeing him at all?—A. Yes, sir; I saw him a couple of times.

Q. Where did you see him?—A. I met him on the street afterwards, and at the time he swore me.

Q. What?—A. At the time he swore me.

Q. You saw him a couple of times on the occasion of this visit, when Mr. Purdy took your deposition?—A. Yes, sir.

Q. Did you see Major Blocksom when he first visited Fort Brown, immediately after the firing?—A. Yes, sir; I saw him. I was before him.

Q. Did you tell him then just what you have told us now?—A. I don't think so. I just told him just what he asked me.

Q. You told him what he asked you?—A. Yes, sir; he asked me questions about it.

Q. Did he seem to know all about these facts that you have testified to?—A. Yes sir.

Q. Now, when you testified before Mr. Purdy, did you tell him everything, just as you have told us?—A. Yes, sir.

Q. You stated there, I believe, substantially what you have here; but I will pass that now. I wanted to ask you about another thing before I leave it, and then I will let them cross-examine you. You say you heard one bugle sound; that was the call to arms?—A. Yes, sir.

Q. That sounded where?—A. It sounded towards the east.

Q. Up at the guardhouse, was it?—A. Yes, sir; I think so.

Q. You said that was the first?—A. That was the first bugle call.

Q. Did you hear another one?—A. Yes, sir; soon after that I heard all the rest of the companies.

Q. The companies took up that call?—A. Yes, sir; the same as when they have a fire drill.

Q. And the trumpeter sounded in each one?—A. Yes, sir; and they kept that up for about two or three minutes.

Q. And I understand you that the firing was still going on when you stood behind that tree at the administration building?—A. Yes, sir.

Senator FORAKER. I think I will let you cross-examine now.

(At this point the committee took a recess until 2 p. m.)

AFTERNOON SESSION.

The committee reconvened, pursuant to the taking of recess, at 2 o'clock p. m.

Present: Senators Warren (chairman), Foraker, Hemenway, Bulkeley, Warner, Foster, Overman, and Frazier.

TESTIMONY OF MATIAS G. TAMAYO—Continued.

By Senator FORAKER:

Q. Tell us again, Mr. Tamayo, just where you were, as nearly as you can—locate yourself on that plat on the wall—when you heard the first shot.—A. I was right here. I was right at the corner there [indicating].

Q. Right at the corner?—A. Yes, sir.

Q. Were you between the barracks and the wall?—A. Yes, sir.

Q. Here is a red cross marked on the map, which must have been put there for some purpose.

Senator OVERMAN. That is given here as marking the place where Matias Tamayo heard the first shot.

By Senator FORAKER:

Q. The center of that cross will put you right down here [indicating on map]?—A. Yes, sir; that is too far.

Q. That is too far?—A. Yes, sir.

Q. You were where?—A. Eight or 10 feet away from the corner—here.

Q. That is up there [indicating on map]?—A. Yes, sir; right there.

Q. So that this cross ought to be over here 8 or 10 feet?—A. Yes, sir; that is the cross—8 or 10 feet from the end of the barracks.

Q. Eight or 10 feet from the end of the barracks?—A. Yes, sir.

(At the request of Senator Foraker the stenographer here marked with ink a dot with a small circle around it at the spot located on the map by the witness.)

By Senator BULKELEY:

Q. Where was the sink located there?—A. Right here, in front of the entrance [indicating].

By Senator FORAKER:

Q. In front of what?—A. In front of the entrance—the door.

By the CHAIRMAN:

Q. You mean the back entrance to the barracks?—A. Yes, sir; the back entrance to the barracks.

By Senator FORAKER:

Q. What, if anything, was in front of the alley, this Cowen alley, or Yturria alley, as you call it, I believe?—A. Yes, sir.

Q. Where does Yturria live?—A. Right here [indicating on map]. Here is the Cowen house.

Q. So that you call that the Cowen-Yturria alley?—A. Yes, sir.

Q. Is there anything, any building, in front of the mouth of that alley?—A. No, sir; but right here is a building [indicating].

Q. Somebody spoke about some oil sheds?—A. They are right here.

Q. If you entered this reservation by the gate, and started up by the wall, you would come to the oil sheds first, and then the sink?—A. Yes, sir; and if you would take this road, the woodshed and the oil shed are right here [indicating].

Q. Do you know how far it is from the road to the barracks?—A. About a hundred feet.

Senator FORAKER. We have the exact distance here.

Senator OVERMAN. This map is 30 feet to the inch.

Senator FORAKER. I think we measured that one day, and it measured 45 feet.

Senator WARNER. Forty feet, I believe.

Senator FORAKER. We will measure it and find out now. You are a carpenter, are you not?

The WITNESS. Yes, sir.

Senator FORAKER (after making measurement). That is an inch and a half, is it not?

The WITNESS. Yes, sir; just exactly.

Senator FORAKER. That is what somebody measured it before. So that if the map was made perfect to the scale of 30 feet to the inch, it would be 45 feet from the road to the barracks?

The WITNESS. Yes, sir.

Senator FORAKER. The road runs right through the middle of that, does it?

The WITNESS. Yes, sir.

By Senator OVERMAN:

Q. Does a road run between the barracks and the wall?—A. Between the wall and the barracks is a road.

Q. How far from the wall is that road?—A. About 20 feet away from the wall, that road is.

By Senator BULKELEY:

Q. Is it back of the sink?—A. In front of the sink.

Q. Between the sink and the barracks?—A. Yes, sir.

By Senator OVERMAN:

Q. The road is between the sink and the barracks?—A. Yes, sir.

Q. Is not there a little gate there?—A. Yes, sir; about 10 feet, or 8 feet.

Q. That is a little gate?—A. Yes, sir; about 10 feet wide.

By Senator FORAKER:

Q. At what time was it you jumped on your cart after the firing commenced?—A. It must have been a little after 12 o'clock.

Q. I did not mean that. You heard first one shot?—A. Yes, sir; and then I heard another one, and then I heard all the firing.

Q. Then you heard the second shot?—A. Yes, sir.

Q. And then right after that—A. Right after that I heard all the rest of the shooting.

Q. When was it, now, with respect to the firing, that you jumped on your cart and started away?—A. I think I heard about 20 shots there, and then I jumped on the cart and drove away.

Q. I call your attention to the following statement in your testimony given before Mr. Purdy:

So immediately after one of the shots was fired you jumped into your cart and drove between D and B toward the administration building?—A. Yes.

Is that correct, or not?—A. No, sir.

Q. That is not correct?—A. No, sir.

Q. It should have been that you jumped on your cart after this rapid firing had commenced?—A. Yes, sir; after I had heard about 20 shots. I made that statement to Mr. Purdy.

Q. You made that to him?—A. Yes, sir.

Q. Then how did he get this in?—A. I don't know, sir.

Q. This was read over to you before you signed it, or was it not?—A. Yes, sir; it was read over. No, sir; I read it myself, and I called Mr. Kowalski's attention to that one shot, and he said, "Well, it is just the same as one shot."

Q. Mr. Kowalski said that?—A. Yes, sir; because Mr. Purdy was busy in the next room.

By Senator OVERMAN:

Q. Was this taken down by a stenographer?—A. Yes, sir.

By Senator FORAKER:

Q. Is there any other statement in this testimony of Mr. Purdy's that you want to correct? I ask you that because I want to put it in evidence here. Do you remember anything else? I will not call your attention to anything unless you think of something. I will ask that the whole of this testimony of this witness as found at pages 33, 34, and 35 of part 2 of Senate Document 155, as taken by Mr. Purdy, be incorporated as a part of this record, and I will now let the Senator cross-examine the witness.

The testimony referred to is as follows:

MATIAS G. TAMAYO was first duly sworn by Maj. A. P. Blocksom, and, upon being examined by Mr. Purdy, testified as follows:

Q. What is your name?—A. Matias G. Tamayo.

Q. Mr. Tamayo, do you live in Brownsville?—A. Yes, sir; or, rather, I live in the post, in the same house where I used to live.

Q. How long have you lived there?—A. Six years in November.

Q. What were your duties there during the month of August of this year?—A. I was a scavenger.

Q. Do you remember the night of the 13th of August, when the firing occurred here in the city of Brownsville?—A. Yes, sir.

Q. Where were you at about 12 o'clock that night?—A. I was opposite B Company.

Q. Is that about opposite the main gate on Elizabeth street?—A. Yes, sir; at the corner of the barracks, right near the kitchen.

Q. That is, the barracks of Company B?—A. Yes, sir.

Q. What were you doing there?—A. I was emptying a can of ashes.

Q. What vehicle did you have there?—A. I had a dump cart and one mule.

Q. Where had you been just before your arrival at the corner of the barracks?—A. I had been right at the rear of B Company.

Q. How long had you been working there?—A. For about ten minutes.

Q. Had you seen any men out there between the wall and the barracks?—A. No, sir.

Q. Where was the sentry?—A. I met him when I was emptying that can; he passed by the same as usual.

Q. Is that the only soldier you saw there before the firing?—A. Yes, sir.

Q. Did you have a light of any kind?—A. Yes; one of these dash lanterns. Has a bull's-eye; gives a good light, just like a searchlight—

Q. While you were there at work emptying that ash can?—A. Yes, sir.

Q. Did you hear any firing?—A. I heard one shot, and after that I heard the rest.

Q. In what direction did you hear that shooting?—A. In the direction of Yturria's.

Q. Do you know whether those shots were inside or outside the wall?—A. I think they were outside.

Q. Do you know?—A. I think they were. If they had been inside I could have seen the men.

Q. Did you look that way?—A. Yes, sir.

Q. What did you see?—A. Nothing.

Q. No men?—A. No. Everything was quiet.

Q. Where were the shots fired from the outside of the wall—how near?—A. I can not tell; they must have been some 45 yards from where I was standing; toward Mr. Cowen's alley.

Q. You know where the alley is located leading up to Mr. Cowen's house?—A. Yes, sir.

Q. Were the shots near the wall or that alley?—A. I don't think they were so near the wall.

Q. Were they near Mr. Cowen's house?—A. I don't know; they were in that direction, though.

Q. What did you do then?—A. I got away as quick as I could; got my cart and drove off.

Q. Where did you drive?—A. I drove opposite D Company and from there to the administration building.

Q. You were frightened?—A. Yes, sir.

Q. Badly?—A. No; not very.

Q. Did you expect to be shot?—A. Yes, sir.

Q. You do not know who did the shooting?—A. No, sir.

Q. Did you hear any voices?—A. No, sir.

Q. Did you hear the bugle?—A. Yes, sir.

Q. Who sounded it?—A. I don't know, sir.

Q. It was sounded inside the post—inside the house?—A. I don't know whether inside or outside. I had just blowed my lantern out; I was afraid that they might see me and shoot me, or shoot at my lantern and hit me.

Q. But you could not see the bugler?—A. No, sir.

Q. You don't know whether he was inside or outside?—A. No, sir.

Q. Do you know whether he was to the east or to the west of the main gate?—A. The sound seemed to me that it came from the east of the main gate; but as soon as this bugle sounded all the rest of the bugles blowed, the same as when they have a fire drill—every company.

Q. Did the men get up?—A. Yes, sir.

Q. Where were you?—A. I was opposite D Company.

Q. Were you driving?—A. I was still in my cart and got away; drove to the administration building, or toward it.

Q. Now, looking at this map of the post (Exhibit B), calling your attention to the barracks, will you state that you were located at the point marked or indicated by a cross mark? Where did you drive? And the point where you stopped in front of Company D barracks was toward the parade ground, so when you stopped there you could not see what was taking place in the rear of B barracks?—A. No.

Q. So immediately after one of the shots was fired you jumped into your cart and drove between D and B toward the administration building?—A. Yes.

Q. When you were over at the administration building, or while you were going there, did you hear shooting?—A. Yes.

Q. A great many shots?—A. Yes, sir.

Q. In the same direction of the first shot?—A. Yes, sir. I came out of the administration building and stood back of a tree, and the firing was still going on.

- Q. Did you see any officers?—A. No, sir.
- Q. Could you tell whether the soldiers were in the rear of the barracks at that time?—A. They were then in the front, getting ready.
- Q. Then they formed in front of the barracks, toward the parade ground?—A. Yes, sir; they were stationed all along inside the fence.
- Q. Did you hear any shooting up in town after you heard the firing out in the rear of B barracks?—A. No, sir; could not hear any firing up in town.
- Q. But when you were driving your cart up to the administration building?—A. Oh, yes; but I could not tell whether the firing was up town or in the alley leading to town.
- Q. You have stated all you know now with reference to this matter?—A. Yes; that's about all I know.
- Q. You then came back and went about your business on that evening?—A. Yes, sir; toward the administration building.
- Q. You did not see the flash of any guns at any time?—A. No, sir.
- Q. And did not see any men at the time the shooting was going on?—A. No, sir.
- Q. But the shooting that you heard was over in the vicinity of that alley that comes out by the wall in the rear of Company B's barracks?—A. Yes, sir.

MATIAS G. TAMAYO.

THE STATE OF TEXAS, *County of Cameron, ss:*

Matias G. Tamayo, being first duly sworn, deposes and says that he has read the foregoing testimony by him subscribed, and that the same is true of his own knowledge, except as to those matters therein stated upon information and belief, and that as to those matters he believes them to be true.

MATIAS G. TAMAYO.

Subscribed and sworn to before me this 29th day of December, 1906.

[SEAL.]

LOUIS KOWALSKI,
Clerk District Court, Cameron County, Tex.

Senator BULKELEY. The witness does not know how it is printed in the book, there. Had he not better look at it? You asked him if he wanted to correct any of it.

Senator FORAKER. I asked him if he recalled anything that he wanted to correct. Shall I read it to him?

Senator OVERMAN. You have read it over?

The WITNESS. Yes, sir; at Fort Sam Houston they asked me about that ash can, and they asked me if I had said—

By Senator FORAKER:

Q. Have you testified before anybody but Mr. Purdy?—A. Yes, sir.

Q. Did you testify before the court-martial?—A. Yes, sir; at Fort Sam Houston. They asked me about the ash can, if I didn't testify before Mr. Purdy—

By the CHAIRMAN:

Q. Do you remember what day you testified before the court-martial?—A. The 8th or 9th.

Q. The 8th or 9th of February?—A. No, sir; the 8th or 9th of March.

Q. The 8th or 9th of March?—A. Yes, sir.

Senator FORAKER. That testimony is not now before us. No testimony taken before the court-martial later than the 1st of March has been sent to us. I will put that testimony in, whatever it is.

By Senator FORAKER:

Q. What was said about the ash can?—A. They asked me if I had stated before Mr. Purdy that I had seen the sentry while I was at the ash can there.

Q. If you had seen what?—A. If I had seen the sentry at the ash can, there.

Q. Did you or not?—A. No, sir; I didn't see him while I was at the ash can; I seen him before the shooting when I went in B Company to get a drink of water; I went in B Company and got my drink of water.

Q. Where was the sentry then?—A. He was walking his post from east to west [indicating on map].

Q. You saw him then?—A. Yes, sir; he was about 10 feet away from where I went in, the place I met him.

Q. Do you know who the sentry was?—A. No, sir.

Q. Now, the firing; you are clear about that, are you? I want you to understand that there is a good deal of controversy over it. The firing was inside or outside of the wall?—A. Outside of the wall.

Q. Was there any firing inside of the wall?—A. Not while I was there.

Q. And you did not leave until this fusillade commenced?—A. No, sir.

Q. And if there had been any inside of the wall, either in the barracks or in the grounds, you would have seen it?—A. I could have seen it while I was there.

Q. You could not have failed to see it?—A. No, sir.

Q. And you are clear that there was no firing from the back porches of the barracks?—A. No, sir.

Q. And you did not see any men—A. No, sir.

Q. Fifteen or 20 or any other number?—A. No, sir.

Q. Did you see anybody at all, except the sentry?—A. I saw the soldiers after the shooting had taken place.

Q. I mean at the time the firing commenced?—A. No, sir.

Q. You are a full-blooded Mexican?—A. Yes, sir.

Q. You will pardon me for asking you this. Are Mexicans in Brownsville of as dark a color as you are?—A. Yes, sir; some of them look like a colored man. They are very dark.

Q. Some of them are darker than you are?—A. Oh, yes.

By Senator OVERMAN:

Q. Just one question right there. What is your height?—A. I do not know, sir.

Q. You are not over 5 feet?—A. A little over 5 feet.

Q. Are you an ordinary size of a Mexican?—A. No, sir; I am very short. I have got a brother that is taller than me.

Q. Mexicans are not small men, generally?—A. No, sir; some of them are very big—very stout.

By Senator FORAKER:

Q. How tall are some of them?—A. Six feet.

Q. Can you tell us whether the citizens down there, the men of Brownsville, are in the habit of wearing khaki clothing?—A. Yes, sir; sometimes the soldiers there used to give it away to them.

Q. They gave it away?—A. Yes, sir.

Q. Could people get khaki there and make up clothing out of it? Were there tailors who made suits out of khaki?—A. I don't think they got the brand-new cloth to make. I believe to get a second-hand coat from a man—old clothes.

Q. Cast-off clothing?—A. Yes, sir.

By Senator WARNER:

Q. You knew the police force of Brownsville?—A. Yes, sir.

Q. How many policemen were there in Brownsville?—A. I think there must be about 12 policemen.

Q. They were uniformed?—A. Yes, sir.

Q. What was their uniform?—A. Blue.

Q. And what kind of hats did they wear?—A. They wear gray hats.

Q. With wide brims?—A. With what?

Q. A wide-brimmed hat?—A. Yes, sir; with a cord around it like officers wear.

Q. And a badge?—A. Yes, sir.

Q. When did they wear that uniform?—A. They commenced to wear it about three years ago.

Q. They wore it all the time, did they?—A. Yes, sir; before that they used to dress in citizen's clothes.

Q. But after they commenced to wear the blue uniform they wore it all the time?—A. Yes, sir.

Q. You were there and saw the policemen every day and were acquainted with them?—A. Yes, sir.

Q. Because you were raised as a boy there and lived there as a man, and you knew all the policemen?—A. I knew all the policemen.

Q. How did the policemen compare with you in size?—A. My size?

Q. Yes.—A. Oh, they were much bigger than I am; fat, and taller than I am.

Q. They were Mexicans, were they, most of them?—A. Yes, sir; most of them are Mexicans.

Q. How many Americans?—A. They have about three or four Americans.

Q. Do you know when Mayor Combe became mayor of Brownsville?—A. Yes, sir; I remember. He became mayor about two years or three years ago.

Q. And when he came in he had the police uniformed, as you have stated?—A. Yes, sir; he is the one that had the uniforms.

Q. And after that they wore the uniform all the time when on duty?—A. Yes, sir.

Q. How many of the policemen were on duty in the daytime and how many in the night, if you know?—A. I can't exactly tell you, but there must be about 10 in the night and 4 at daytime.

Q. That would make 14 policemen?—A. Yes, sir.

Q. I suppose you do not pretend to know just where they were stationed?—A. No, sir.

Q. I will not take up time with that. You heard no firing from any place in the fort there?—A. No, sir; not while I was at that place where I said; but after I left that place I don't know what took place behind the barracks. But while I was there there was no firing done from the inside.

Q. You remained there. When was it that you heard the bugle sound?—A. As soon as I jumped on my cart and drove away I heard the first bugle sound.

Q. You heard that bugle then?—A. Yes, sir; that was when—

Q. Wait a moment. Up to the time you heard the bugle sound, there was no shot fired in the fort?—A. Yes, sir.

Q. You know that?—A. Yes, sir.

Q. If there had been you have said, in answer to Senator Foraker, that you would have heard it?—A. How is that?

Q. If there had been any shot fired in the fort you would have heard it?—A. From the inside?

Q. Yes.—A. Yes, sir.

Q. And none was fired?—A. No, sir.

Q. That was up to the time—so that we will get it definite, now—that you jumped on your cart; that was the time the bugle sounded?—A. Yes, sir. When the bugle sounded I had already heard these shots coming into the post.

Q. Yes; but were there any shots from the post—that is what we are talking about—inside?—A. None.

Q. None?—A. No, sir.

By Senator FOSTER:

Q. You are absolutely certain of that?—A. Yes, sir.

By Senator WARNER:

Q. Now, you heard shots coming into the post?—A. Yes, sir.

Q. Did you look in which direction those shots came?—A. Yes, sir.

Q. When was it you put out your light?—A. When I heard the first and second shots, that was the time I put my light out. After I heard the first two shots I put my light out.

Q. Why did you put your light?—A. Because I am accustomed to it. I think it is always better to put a lantern out when there is shooting going on.

Q. Because you are accustomed to it?—A. Yes, sir.

Q. Had you been accustomed to putting your light out when there was shooting?—A. Sometimes, in town; yes, sir.

Q. When there was shooting?—A. Yes, sir. I will tell you what I thought that night when I put the lantern out, when I heard the first two shots.

Q. Yes.—A. One night I was going home, and I used to live three or four blocks from the quartermaster's corral toward the south, and I was going home about half past 12 and some one shot at my light, and that night I come pretty near being shot.

Q. You were then where?—A. I was going home that night.

Q. But just where were you living?—A. That was a good time before this shooting took place.

Q. Where were you living at that time?—A. I was living by the quartermaster's corral, about three blocks from the corral.

Q. Inside of the fort?—A. Yes, sir; inside of the fort.

Q. Point out the quartermaster's corral, and where you were living at that time?—A. Now I am living right here [indicating].

Q. Yes; I know; but where were you living then?—A. Then I used to live back here [indicating].

By the CHAIRMAN:

Q. You spoke of a water tank there?—A. No, sir; this is the ice plant [indicating]. That night I came near being shot I used to live down here [indicating].

By Senator OVERMAN:

Q. That is by the magazine house?—A. Yes, sir; close to the magazine house, on the other side of the magazine house. And that night that bullet passed me and I put my lantern out, that reminded me of the night that I came pretty near being shot.

By Senator WARNER:

Q. When was that?—A. That was about two years before this shooting.

Q. And that was the reason, and the only reason, that you put out your light?—A. Yes, sir.

Q. Where was this shot fired from, that made you put out your lantern?—A. The first time?

Q. The first shot, so that we will have no mistake about it, when you put out your lantern?—A. It was from outside of the road, the big road that passes on the other side of the reservation [indicating on map].

Q. You have spoken of this alley here between Elizabeth and Washington streets?—A. Oh, you were talking about this, here [indicating].

Q. If you will answer my questions we will get along better.—A. Yes, sir.

Q. What do you call this alley [indicating]?—A. The Cowen and Yturria alley.

Q. The Cowan and Yturria alley. That is between Washington and Elizabeth streets?—A. Yes, sir.

Q. With reference to that alley, where was that first shot fired from?—A. Right along here [indicating].

Q. Right along—A. Right here [indicating on map].

Q. You have marked a good many places there.—A. It was right here, the first shot, and then I heard the next one.

Q. That is, about half way from the barracks road to Fourteenth street?—A. Yes, sir.

Q. Right along there in the alley?—A. Yes, sir.

Q. In the alley?—A. Yes, sir; there is where I heard the first two shots.

Q. Wait a moment, now, Tamayo; that is all right. Wait, now, so that we will get it. How many houses are on that alley between Fourteenth street and barracks road?—A. There is one there [indicating]; there is a little house there that belongs to Cowen, and there are three big houses there.

Q. No. 2 on the map, that is supposed to be the Cowen house?—A. Yes, sir.

Q. And No. 9; that is what?—A. Mr. Martinez lives there; that belongs to this gentleman, Mr. Rendall. He was paying rent for it.

Q. That is up on the side toward the gate?—A. Yes, sir.

Q. There are three big houses there, you say?—A. Yes, sir; three big houses there. There is the next one, and Mr. Cowen's is here. That little shack belongs to Mr. Cowen [indicating on map].

Q. There are three big houses on that side toward Elizabeth street. How would it be possible for you to locate that shot?—A. Because I could hear it.

Q. You could locate it because you heard it—where you heard it from?—A. Yes, sir.

Q. Did you hear the bullet from that shot?—A. No, sir.

Q. Then where was the second shot from?—A. Right there in the same place.

Q. In the same place, you judge?—A. Yes, sir.

Q. You located that in the same place?—A. Yes, sir.

Q. Did you hear any bullet then?—A. No, sir.

Q. And there was a fusillade or a volley, was there?—A. Yes, sir.

Q. Now, which was it, a volley or a fusillade, or how?—A. It was a fusillade, I think—lots of shooting.

Q. Well, but was it shooting right along, quick?—A. Yes; a kind of skirmish.

Q. Skirmish; one right after another, "tap," "tap," "tap," "tap?"—A. Yes, sir; pretty hard.

Q. About how many persons would you think were in it, from the discharges, discharging their firearms?—A. I would think it must have been about 8 or 10.

Q. At least that?—A. At least; yes, sir.

Q. Where was that shooting from?—A. It was outside, in town, on that same direction of the Cowen and Yturria alley.

Q. In the same direction, and in about the same spot, you would put it, would you not?—A. Yes, sir.

Q. Did you hear any bullets then?—A. At that time I could only hear the bullets that went into the post, toward the administration building.

Q. Did the bullets go close to your head?—A. No, sir; pretty high through the air.

Q. Pretty high?—A. Yes, sir; I could only hear the whistling of the bullets; that is all.

Q. Are you accustomed to hearing bullets?—A. No, sir.

Q. So that you would not assume to say how far above you they were?—A. No, sir.

Q. But they were going in the direction of the administration building?—A. Yes, sir; I could hear them going pretty high through the air.

Q. Did you look to see whether any of those bullets struck the administration building?—A. No, sir.

Q. The next day?—A. No, sir.

Q. You made no examination?—A. No, sir.

Q. And you went in the direction in which those bullets were going?—A. Yes, sir; that was the only way I could go.

Q. Why did you go down there? Was not that exposing yourself to danger?—A. No, sir; I never thought so, because they were going pretty high.

Q. You thought they were shooting too high to hit you?—A. Yes, sir.

Q. You were at the ash can, as I understand?—A. Yes, sir.

Q. When the shooting commenced?—A. Yes, sir.

Q. Now, there are some wood sheds back of the barracks there?—
A. Only one wood shed and an oil shed.

Q. And an oil shed?—A. Yes, sir.

Q. And what did you carry the refuse of the sinks in? What was that?—A. In which, the company's sink?

Q. Yes.—A. There was nothing but the soil in there.

Q. What?—A. There was nothing but the soil in there.

Q. There was nothing but the soil in there?—A. Yes, sir.

Q. There were buildings there, were there not?—A. Little bits of rooms, yes, sir; inside.

Q. I know. Those buildings were about what size—that is, the front? Six or 8 feet would they be?—A. Those buildings must be about 12 feet wide and about 14 feet long.

Q. That is, the sinks?—A. Those sinks; yes, sir; in front of the company.

Q. There was a sink to each company, was there?—A. Yes, sir.

Q. Take, for instance, barracks C.—A. Yes, sir.

Q. The sink was located where with reference to it—that is, with reference to the center of the barracks?—A. Yes, sir; right in front of the entrance, there [indicating on map].

Q. That is, you mean in front of the rear entrance to the barracks?—A. Yes, sir; right near it.

Q. It was in the center of the barracks?—A. Yes, sir.

Q. Those barracks were how far from this brick wall in the rear—that is, directly separating the garrison road from the grounds?—A. The brick wall from the sink?

Q. From the sink; how far, if you know?—A. About 3 feet.

Q. About 3 feet?—A. Yes, sir.

Q. So that there was plenty of room for persons to pass between?—A. Oh, yes, sir.

Senator OVERMAN. Between the sink and the wall?

By Senator WARNER:

Q. I did not get it exactly. Please give me the size of those sinks—the buildings.—A. Twelve by 14.

Q. And about how high?—A. Eight feet high, and then the rafters, that is about 4 feet high; that makes it about 13 or 14 feet high.

Q. And in addition to those three sinks there was a wood shed and an oil house?—A. Yes, sir.

Q. Where was that wood shed located?—A. There was one at each barracks. There was one at C Company, a little opposite the kitchen here, and another one right here [indicating on map].

By Senator FORAKER:

Q. That is opposite the kitchen of B barracks?—A. Yes, sir.

By Senator BULKELEY:

Q. Opposite each one?—A. Yes, sir; and another one opposite here [indicating].

By Senator WARNER:

Q. I think I will get that. I do not know where the kitchen is.—A. The kitchen—

Q. Wait a moment, and I will get it. Each of those wood sheds, then, as I understand, was in the rear of A barracks, running down

toward the Rio Grande, in that direction [indicating]. Is that correct?—A. Yes, sir.

Q. So that the wood shed at C barracks would be at the end of C barracks nearest to B barracks? Look at the map and see.—A. The wood shed used to be right here, on this side of the road.

Q. I know, but if you will let me ask you the questions I think I will get it.—A. Yes, sir.

Q. The wood sheds were in the rear of the barracks, between the barracks and the wall?—A. Yes, sir.

Q. Take now, for instance, the wood shed of barracks C.—A. Yes, sir.

Q. That would be down here at the end of these barracks nearest to barracks B, would it not—the wood shed?—A. Yes, sir.

Q. That is right, is it not?—A. That is right.

Q. And the wood shed of barracks B would be down here [indicating]?—A. Yes, sir.

Q. Nearest to barracks D?—A. Yes, sir.

Q. And the wood shed of barracks D would be down nearest to what is marked "School" on this map, nearest to the Rio Grande?—A. Yes, sir.

Q. Now give us the size of those wood sheds.—A. About 10 by 12; 10 feet wide and 12 feet long.

Senator OVERMAN. And how high?

By Senator WARNER:

Q. Give us the height.—A. They only have one roof—that is, like that [indicating].

Q. But about the height.—A. The front entrance, it is about 12 feet, and then slanting up.

Q. Then slanting up?—A. Yes, sir; it is a slant roof.

Q. In addition to that there was an oil shed?—A. An oil shed.

Q. Was there one oil shed for all the barracks, or one for each barracks?—A. One for each barracks, close to the woodhouse.

Q. Now we will locate that oil shed, if you please.—A. Yes, sir; that was a much more little room than the wood shed.

Q. Yes. We will commence with the wood shed. The oil house was in what direction from the wood shed?—A. East.

Q. When you say east you mean up toward—A. Toward C Company.

Q. That is, you call east going from B to C?—A. Yes, sir.

Q. And the oil house was east of the wood shed?—A. Yes, sir.

Q. And about what distance between the oil shed and the woodhouse? Give it to us just as near as you can.—A. They were close together. It was close to the shed.

Q. Now, you said it was smaller than the wood shed?—A. Yes, sir.

Q. That was a frame shed?—A. Yes, sir; a little frame shed with a slant roof to it.

Q. About what was the size of that?—A. I think 4 by 6—4 feet wide and 6 feet long.

Q. Now, so that the committee may know, I take it that the oil shed, the wood shed, and the sink were all along in a line?—A. Yes, sir.

Q. About the same distance from the wall?—A. Yes, sir.

Q. So that there would be 3 or 4 feet between all of those and the wall?—A. That is right; yes, sir.

Q. What is the length of one of those barracks?—A. About 40 feet wide and about 100 feet long.

Q. Now, you were at the ash can and you have marked the place there?—A. Yes, sir.

Q. How far were you from the barracks when you were at the ash can?—A. I drove my cart between this ash can and the porch.

Q. Yes.—A. It was about 10 feet. The ash can was about 10 feet away from the porch—the back porch of the company.

Q. And you were standing there by the ash can?—A. Yes, sir; back of the cart.

Q. So that you were beyond the space between the barracks—
A. My mule was facing D Company.

Q. You were beyond the space between the barracks and the wood shed?—A. Yes, sir.

Q. The wood shed would be outside of you and the barracks inside?—A. Yes, sir.

Q. That is right, is it not?—A. Yes, sir.

Q. That night was rather a dark night, was it not?—A. Yes; pretty dark.

Q. And you were down near the gate?—A. Yes, sir.

Q. At a point you have marked there, a little way from that red star on the map?—A. Yes, sir.

Q. About how many feet from the gate?—A. From the big gate?

Q. Yes.—A. About 70 feet.

Q. So that you could not see what was going on up beyond in C barracks, behind those buildings, or you could not see people up there, could you, after you put your lamp out; or with your lamp burning, even, because it would not throw light up there?—A. No, sir; I couldn't see them that far.

Q. That was a bull's-eye light you had, I understand?—A. Yes, sir.

Q. And persons may have come in or gone out there and you could not have seen, whoever they were?—A. I could have seen them as far as B Company.

Q. But you could not as far as C Company?—A. No, sir.

Q. Or you could not on what you call the east end of B Company?—A. No, sir; that was pretty far.

Q. You could not have seen who came in or went out from D Company from where you were?—A. No, sir; because he could go out here and jump this wall here, and I couldn't see him. There is a lot of trees here [indicating].

Q. No. And when you heard this first shot pass over your head, which way were you facing, if you know?—A. I was facing the town.

Q. Facing the town?—A. Yes, sir.

Q. Your back was toward the barracks?—A. The barracks; yes, sir. I stood this way [indicating].

Q. Yes. And then of course you could not see either the porches of B or C barracks, could you?—A. Yes, sir; I could see the porches.

Q. When you were facing the town?—A. Yes, sir; I could see these porches here of B and C Companies.

Q. But if you were facing the town your back was toward the barracks?—A. Yes, sir.

Q. And your back was toward the porches?—A. Yes, sir; at the same time I could have seen the flash of their guns if they had shot from there while I was there.

Q. I have not asked you anything about the flash of a gun yet, Mr. Tomayo.—A. Excuse me, sir.

Q. I simply asked you if you could see those porches from the position you were standing in.—A. Yes, sir.

Q. Now, you were facing Elizabeth street?—A. No, sir; not quite facing Elizabeth street.

Q. A little to the right?—A. A little to the north; yes, sir.

Q. And your back was toward the barracks?—A. Yes, sir.

Q. And the porches of the barracks were at your back also?—A. Yes, sir.

Q. And that is the position that you were in when that first shot was fired?—A. Yes, sir; when the first shot was fired?

Q. When the first shot was fired.—A. When the first shot was fired I was setting that ash can on the ground, and I stood up and listened to the shooting. That is the time I stood up, facing the town.

Q. When the second shot was fired you did what?—A. That is the time I put the lantern out.

Q. When the second shot was fired you put out your lamp?—A. Yes, sir.

By Senator OVERMAN:

Q. Were you stooping over holding that can?—A. I was stooping over. It was dry ashes and it wasn't very heavy, and there were two handles on the side, and I was setting it down when I heard the first shot.

By Senator WARNER:

Q. And then you jumped in your cart?—A. No, sir; the second shot went and then I put my lantern out.

Q. Then what did you do?—A. I stood up listening to the shooting, right there.

Q. You stood up there?—A. Yes, sir.

Q. Now, the wood shed was between you and the town?—A. Yes, sir; but the wood shed was pretty far from me, on the other side of the road.

Q. I know; but the wood shed was between you and the town?—A. Yes, sir.

Q. So that you were back of the wood shed?—A. Yes, sir; I had the wood shed right there in front of me; but I could see between the wood shed and the privy what was going on in town [indicating].

Q. Between the wood shed and the sink?—A. Yes, sir.

Q. And what is the distance between the wood shed and the sink?—A. About 8 feet.

Q. And you could see there, and see through where the shot was coming from?—A. Yes, sir.

Q. You could see the flash?—A. No, sir; I couldn't see it on account of those houses being so close there on the alley.

Q. And you were looking in that direction, then?—A. Yes, sir.

Q. You were not looking at the porches of the barracks at any time?—A. It wasn't any use for me to look at the porches—

Q. Wait a moment; let us not argue about this. Were you or

were you not looking at the porches?—A. I could see both at the same time. I could see the town and I could see the porches.

Q. Well, that may be. About how many shots, in all, did you hear?—A. About 20 shots.

Q. Is that all you heard?—A. Oh, I heard from the first to the last shot, but right there I only heard about 20 shots.

Q. At that place?—A. Yes, sir; at that place.

Q. And every shot you heard was outside of the porch?—A. Those 20 shots, yes, sir; the first 20 shots I heard, yes, sir.

Q. You can not be mistaken about that?—A. No, sir.

Q. Where was this guard when you saw him—that is, the sentry; not a guard, but a sentry?—A. The sentry; yes, sir. I will have to use the map.

Q. Certainly.—A. He was going along here [indicating].

Q. Pardon me; he was going along, then, in the rear of B barracks?—A. Yes, sir; right here [indicating].

Q. Toward the east end?—A. He was walking from east to west. I went in here to get my drink of water, and there is where I met him, about 10 feet from where I went in. I went in here and got my drink of water and came right out.

Q. That is, you went in that big door at the center of B barracks and got your drink of water?—A. Yes, sir.

Q. Where was the sentry when you came out?—A. I never saw him any more when I came out.

Q. You never saw him any more?—A. No, sir; I never paid any attention to him any more.

Q. How long after that was the shooting?—A. About two minutes after that.

Q. Was it as long as two minutes?—A. Yes, sir.

Q. Did you speak to the sentry, or did he speak to you?—A. No, sir.

Q. Where are the trees in there?—A. The administration building—

Q. Are there any trees there?—A. Yes, sir; a lot of trees back of D Company, toward the river, along in here [indicating].

Q. A lot of trees in there?—A. Yes, sir.

Q. Large trees?—A. Yes, sir.

Q. How close together?—A. Some about 4 feet apart and some about 8 feet.

Q. They are pretty close together?—A. Pretty close together; near the wall; right here [indicating].

Q. There are other trees back there, back of the other barracks?—A. No, sir; there are some back here [indicating].

Q. Back of those vacant barracks?—A. Yes, sir; back of that barracks [indicating].

Q. That is back of barracks No. 36, as it is marked there. There are a lot of trees back there, too?—A. Yes, sir.

Q. There are trees back of barracks C and B?—A. No, sir. Back of C barracks there is only one or two little bits of trees; not very big.

Q. But where are there so many of them?—A. Back of this building "36," here, and back of D. Back of C barracks is only one or two little bits of trees.

Q. D barracks is the one that has so many back of it?—A. Yes, sir.

Q. You came around in front. Was the company forming when you got around there?—A. No, sir; they were not forming yet, but they were pouring out of the quarters.

Q. Which quarters?—A. I could hear them coming out of the quarters C, B, and D.

Q. Did you hear any officers at all?—A. No, sir.

Q. When you were around back there did you hear any horses running?—A. No, sir.

Q. Did you hear anyone shouting "Come out, you black sons of bitches," or any words to that effect?—A. No, sir.

Q. If anything of that kind had occurred you would have heard it?—A. I think so.

Q. You heard no such thing?—A. No, sir; not a sound.

Q. Not a sound?—A. No, sir; everything was quiet before the shooting.

Q. Did you hear the sentry call for the guard?—A. No, sir.

Q. You heard nothing of the kind?—A. No, sir.

Q. Did you hear the sentry discharge his gun right up there, near barracks C or D or B?—A. No, sir; I don't think I could have heard it, because there was so much shooting going on in town.

Q. You couldn't have told, then, whether there were shots in the barracks or not, around the barracks?—A. No, sir; not after the sentry fired his piece.

Q. You have not said anything about the sentry firing his piece yet.—A. You asked me if I had heard him.

Q. Yes; I asked you that.—A. And I said "No, sir."

Q. You did not hear him?—A. No, sir.

Q. Then you said you could not have told whether there were shots or not?—A. No, sir.

Q. Could you or not have told whether there was a shot fired from the barracks or not?—A. Yes, sir; from the back of the barracks; I could have seen it.

Q. You could have seen it?—A. Yes, sir.

Q. But suppose you were looking in the other direction?—A. No, sir; I could see both places.

Q. You still insist on that?—A. Yes, sir.

Q. You were around there a good deal—around the barracks?—A. Yes, sir; I used to be around every night and every morning.

Q. Did you have any ammunition?—A. No, sir.

Q. You could have gotten cartridges if you had wanted them, could you not?—A. No, sir.

Q. Why not?—A. Because I don't know where I could get them.

Q. Why could you not?—A. It was against the law, I think, to get cartridges from the Government.

Q. Could you not get them from the men?—A. No, sir.

Q. No cartridges around there at all?—A. I never saw any around there at all, outside of the quarters.

Q. Outside of what?—A. Outside of the quarters.

Q. When they were in the quarters, where were they?—A. Sometimes I used to see the men cleaning cartridges on the porches there; but I never asked them for any.

Q. Did you ever see any cartridges lying around loose in the quarters?—A. No, sir.

Q. You were around a good deal?—A. Yes, sir; I used to go in every morning; I used to go in to get a drink of water.

Q. And you would associate with the men?—A. Yes, sir; with the Twenty-sixth Infantry, but not with the Twenty-fifth, because they were there just a few days. I was not acquainted with them.

Q. But when the Twenty-sixth was there, you were in there frequently?—A. Yes, sir.

Q. Did you see any cartridges around there then?—A. Yes, sir; I was acquainted with a good many of the men.

Q. I say did you see any cartridges around then?—A. No, sir.

Q. You did not see any loose around in the barracks?—A. I could see them lying around the porches, where the men were cleaning them.

Q. Cleaning the cartridges?—A. Yes, sir; while they were at target practice.

Q. That was the Twenty-sixth?—A. Yes, sir.

Q. You were on good terms with the Twenty-fifth, were you not?—A. Yes, sir; I was there all the time the Twenty-fifth was there at Fort Brown; I used to be around there every morning and every night.

Senator FORAKER. I would like to have that answer read. I did not hear it.

The question and answer were read by the stenographer, as follows:

Q. You were on good terms with the Twenty-fifth, were you not?—A. Yes, sir; I was there all the time the Twenty-fifth was there at Fort Brown; I used to be around there every morning and every night.

Senator FORAKER. I thought he said the Twenty-sixth. You said the Twenty-sixth, did you not?—A. Yes, sir.

Q. This is the Twenty-sixth you are speaking of?—A. Yes, sir.

Q. You said "Twenty-sixth," did you not, when you answered?—Yes, sir.

Q. You were not on good terms with the Twenty-fifth, were you?—A. No, sir.

Q. Why not?—A. Because they had not been there long enough for me to get acquainted with them.

By Senator FOSTER:

Q. Were you personally acquainted with the members of the police force of Brownsville?—A. No, sir; not much. I only know them.

Q. Did you know them personally?—A. The police?

Q. Yes.—A. Yes, sir; but I am not much acquainted with them.

Q. Did you ever talk to any of them?—A. Yes, sir.

Q. Talk to all of them?—A. Pretty near all of them; yes, sir.

Q. Are they citizens of this country?—A. I don't know, sir; I could not tell you that.

Q. Were they Mexicans or Americans?—A. Most of them are Mexicans.

Q. Is it not a fact that most of the Mexican policemen can speak the American language?—A. No, sir; not all of them. Some of them can understand a good deal, but can not talk it. Some of them can understand it and talk it pretty well.

Q. About how many of the Mexicans on the police force could not speak the English language?—A. About six or eight.

Q. And you knew them all well?—A. Yes, sir.

Q. Now, you spoke of hearing one shot and two shots.—A. I heard one shot first and then I heard another shot.

Q. How long an interval was there between the first and second shots? Were they right after each other?—A. About five seconds.

Q. About five seconds?—A. Yes, sir.

Q. What you have stated in your examination before Mr. Purdy, and in the affidavit that you made on the 14th day of August, 1906, is the truth, is it not?—A. Before Major Blocksom?

Q. Before Major Blocksom; yes.—A. Yes, sir.

Q. And then the affidavit which was read to you by Senator Foraker, made on the 14th day of August, 1906?—A. Yes, sir.

Q. That is true, is it not?—A. Yes, sir.

Q. You told the truth in that affidavit?—A. Before Mr. Purdy? Yes, sir.

Q. Before Captain Lyon. The affidavit was taken before Captain Lyon.—A. That is the only thing. He put down that I said alongside of the fence—alongside the wall, I mean. I meant in this Yturria alley.

Q. Now, immediately after you heard the first shot—A. Yes, sir.

Q. (Continuing.) You did what?—A. I heard the second shot and then I grabbed my lantern and put it out.

Q. After the second shot?—A. After the second shot.

Q. You put your lantern out?—A. Yes, sir.

Q. What did you do after you heard the first shot?—A. That was the time I took my lantern and put it out.

Q. There was a very short interval between the first and second shots, was there not?—A. Yes, sir.

Q. Then, after you had put your lantern out you got on your wagon or cart and drove toward the administration building?—A. No, sir; I stood this way [indicating], listening to the shooting.

Q. You stood that way and listened to the shooting?—A. Yes, sir; I could see the place where the shooting was going on; and the quarters—the quarters run this way, that is why I could see them.

Q. After the second shot, then, you did not get on your cart, but stood some time listening to the shooting?—A. Yes, sir.

Q. Now, how long after the second shot was it you heard the fusillade?—A. Right after that.

Q. Right after that?—A. Yes, sir.

Q. About how many seconds or minutes between the second shot and the beginning of the fusillade?—A. The second shot?

Q. Yes, sir.—A. Oh, just about three seconds; something like that.

Q. About three seconds?—A. About three seconds.

Q. Now, when did you hear the bullet, or bullets, whistling?—A. After I heard this fusillade going on, at the same time I could hear the bullets going into the reservation.

Q. You heard the bullets?—A. Yes, sir.

Q. Going into the reservation, or toward the reservation?—A. Yes, sir.

Q. Now, in your affidavit subscribed to on the 14th day of August, 1906, before Samuel P. Lyon, captain of the Twenty-fifth Infantry, I find this statement:

That about this time a shot was fired by some person unknown in the street just outside the wall dividing the military reservation from the town of Brownsville, Tex.; that he could hear the bullet and that it appeared to be going in the direction of the Rio Grande River, about parallel to the above-mentioned wall.

Is that what you swore to then?—A. Yes, sir; I believe I did, but I never meant along the wall.

Q. Did you mean, then, to say that you heard only one bullet whistling?—A. No, sir. I heard these bullets that went into the post; I could hear them whistling.

Q. You heard, then, a number of bullets whistling?—A. Yes, sir; instead of one.

Q. Then that part of the affidavit which I read to you about one bullet is not correct?—A. No, sir; I don't think it is.

Q. Well, do you know?—A. No, sir.

Q. Then you heard a number of bullets?—A. I heard a number of bullets.

Q. When you got on your cart did you drive it at once to the administration building or did you make any stop?—A. I made a stop in front of D Company, right here [indicating on map].

Q. What did you stop there for?—A. I stopped there to see the men coming out of their quarters.

Q. You stopped there to see the men coming out of their quarters?—A. Yes, sir; just a few seconds, and then I drove away from there. They were making a lot of noise.

Q. Were you in the rear or in the front?—A. No, sir; I was in front, between the barracks and the parade ground.

Q. Did you drive from where you were first standing to the administration building, in the rear or in front, of the quarters?—A. In front of D Company's quarters. I took this road here, stopped right here, and then I drove over here and stopped right here [indicating on map].

Q. You did not drive past in rear of the quarters this way when you left the spot where you were standing, where you heard the shots fired?—A. No, sir.

Q. You did not drive in rear of the quarters, but in front of the quarters, to the administration building?—A. Yes, sir; this way, and stopped right there for a few minutes.

Q. What did you stop there for?—A. To see the men coming out of the quarters.

Senator FORAKER. So that that may be in the record, the witness points to a place in the road about opposite the front of D barracks as the point where he stopped.

By Senator FOSTER:

Q. What did you stop there for?—A. To see the men coming out of quarters.

Q. The bugles were sounding?—A. Yes; the bugles were sounding.

Q. The alarm had been given?—A. Yes, sir; they kept that up about three minutes.

Q. What kept up three minutes?—A. The bugle call.

Q. The bugle call?—A. Yes, sir.

Q. Where were you when the first bugle call sounded?—A. I was going off of this corner here [indicating].

Q. You were where?—A. I had just gotten on my cart and drove away from the corner here, and I was right here when the first bugle sounded. I had just gotten on my cart when the first bugle sounded.

Q. Right here? Where is that?

Senator FORAKER (interrupting). It was away about 20 feet.

(The question and answer were read by the stenographer.)

By Senator FOSTER:

Q. Away from the spot where you were standing?—A. Yes, sir.

Q. When the first bugle went?—A. Yes, sir.

Q. How long was that after you heard the first shot fired down the Yturria alley?—A. It must have been about a minute and a half or so.

Q. Must have been about a minute and a half or so?—A. Yes, sir.

Q. How far is it from the spot where you were standing when the first shot was fired to the first point where you stopped in front of D Company's quarters?—A. I couldn't very well tell you, but it might be 40 or 45 feet to the wall. I don't know about this place here.

Q. How far had you driven your cart from the time you got on it to the time you stopped it?—A. How long?

Q. Yes; how long a time?—A. About three minutes.

Q. About three minutes?—A. Yes, sir.

Q. Then, how long did you stop in front of barracks D?—A. Just a few seconds. Oh, I thought you asked me from here to here [indicating]. From here to here must have taken me about three minutes, and from here to this point about a minute [indicating].

Q. From the point where you got on—A. To the first stop?

Q. (Continuing). Your cart to the first stop?—A. Yes, sir.

Q. Occupied about a minute?—A. A little over half a minute.

Q. A little over a half a minute?—A. Yes, sir.

Q. And your lantern was out then?—A. Yes, sir.

Q. And you stopped about how long, did you say, in front of those quarters?—A. In front—about ten seconds.

Q. About ten seconds?—A. Yes, sir.

Q. What did you stop for?—A. To see the men coming out of the quarters.

Q. And then you drove immediately to the administration building, did you?—A. Yes, sir.

Q. And it took you about a minute and a half to go from the place where you first stopped in front of Company D to the administration quarters?—A. Yes, sir.

Q. Then, when you got to the administration quarters what did you do?—A. I tied up my wheel so that the mule wouldn't run off and went inside of the building. There is a hall that runs this way and another hall that runs from south to north. I used to go in this hall here [indicating].

Q. Where was the tree you got behind?—A. Right here; right here between this road and the building and sidewalk [indicating].

Q. How many trees are there?—A. There are a good many trees. There must be about twenty trees along there.

Q. And you got behind a tree here?—A. Yes, sir; behind a tree right here.

Q. Was the firing going on from the time you got on the cart up to the time you reached the administration building?—A. Yes, sir.

Q. You were uneasy for fear that some of the bullets might strike you?—A. Yes, sir; a little bit; not much.

Q. A little bit; not much. You were not in any way uneasy when you got in front of quarters D of being struck by the bullets?—A. Yes, sir.

Q. Yes.—A. Yes; I was a little uneasy because that was closer.

Q. You were closer then than when you were in front of the administration building?—A. Yes, sir.

Q. And yet you deliberately stopped out in front of those buildings to see the men come down out of quarters?—A. Yes, sir.

Q. You were not at all uneasy about being shot, were you?—A. Not much when I got in front of D Company's quarters.

Q. Now, if the shots were being fired from this Yturria alley and you were at the administration building, were not the quarters of Company D between you and the parties shooting?—A. I don't understand.

Q. You said you heard the firing about here [indicating]?—A. Yes, sir.

Q. In this alley?—A. Yes, sir.

Q. And you got behind a tree in front of the administration building?—A. Yes, sir.

Q. Were the quarters of Company D between you and the shooting?—A. Yes, sir.

Q. And still you were afraid of being shot?—A. I wasn't afraid when I got here to this place; not a bit afraid.

Q. What did you get behind a tree for when you were there if you were not afraid?—A. Because there was a lot of trees there.

Q. You were not afraid of being shot there?—A. No; I thought there might be a little danger—the reason I got behind the tree; but I wasn't afraid here.

Q. You were not afraid there?—A. No, sir.

Q. Where did you begin to get afraid?—A. Back there. I wasn't afraid there.

Q. You were not afraid when you were in front of Company D?—A. I could not see much there.

Q. And you were not afraid in front of Company D when you stopped?—A. I was not afraid in front of Company D when I stopped; no, sir.

Q. And you were not afraid when you got to the administration building?—A. No, sir.

Q. And still you got behind a tree there?—A. Yes, sir.

Q. How long did you stay there?—A. I stayed there about four or five minutes.

Q. Now, in which direction did the firing seem to be when you were going to the administration building?—A. All along here [indicating].

Q. All along—A. Along here; yes, sir [indicating].

Q. "Along here?" That means about Fourteenth street?—A. About Fourteenth street.

Senator WARNER. And the alley.

Senator FOSTER. And the alley.

The WITNESS. Yes, sir.

By Senator FOSTER:

Q. You heard no shots from the inside of the barracks?—A. No, sir; not while I was there.

Q. Not while you were there?—A. No, sir; not one.

Q. Not one?—A. No, sir.

Q. Not one during the whole time you were there?—A. No, sir.

Q. You heard no shots while you were standing at the spot where you first heard the shots in the Yturria alley?—A. No, sir.

Q. You heard no shots from inside of the barracks?—A. No, sir.

Q. The bugle sounded before you left the spot where you first heard the sound?—A. No, sir; a little bit after I left the spot; just a few seconds.

Q. Before you reached the administration building?—A. Yes, sir.

Q. And you stopped in front of Company D?—A. Yes, sir.

Q. Then you heard the bugle sounding the call to arms before you stopped in front of Company D?—A. Yes, sir.

Q. Are you absolutely certain of that?—A. Yes, sir.

Q. You are making no mistake about it?—A. No, sir.

Q. And up to that time you did not hear a single shot fired from the inside of the barracks?—A. No, sir.

Q. If there had been a shot fired you could have heard it, could you not?—A. After I left that spot?

Q. Yes.—A. No, sir; I could not have heard it.

Q. No?—A. Before—

Q. Before the bugle sounded?—A. Before the bugle sounded; yes, sir.

Q. You could have heard a shot from inside of the barracks?—A. Yes, sir.

Q. You are making no mistake about it?—A. No, sir.

Q. None was fired?—A. No, sir.

Q. You are certain of that?—A. Yes, sir.

Q. If a shot had been fired between D and B?—A. D and B?

Q. Quarters D and B, in the space between; would you have heard it?—A. Here [indicating on map]?

Q. Yes.—A. Yes, sir; I could have heard the noise.

Q. Could you have heard it before you reached Company D?—A. Yes, sir.

Q. Could you have seen the shot fired?—A. Yes, sir; I guess so.

Q. If the shot had been fired from the porch in rear of Company D, could you have seen it, and would you have heard it?—A. Yes, sir; while I was here I could have heard it, and maybe seen it.

Q. And maybe seen it, too?—A. Yes, sir.

Q. Where did you hear the bugle—the first sound? Where was the alarm first given?—A. Toward the guardhouse.

Q. Toward the guardhouse?—A. Yes, sir.

Q. Do you remember what you swore to on that subject before Mr. Kowalski?—A. Yes, sir; I think I do.

Q. Did you not swear before him that you could not tell where the first bugle alarm was given?—A. I told him east.

Q. East is a pretty long distance. There are quarters B, C, and 36, east. Was the first bugle sounded from either one of those quarters?—A. From the quarters here [indicating]?

Q. Yes.—A. No, sir; I don't think so. No, sir; I don't think so; not the first bugle.

Q. Not the first bugle. Now, before this same gentleman, Mr. Kowalski, you stated, or you are quoted as stating:

So immediately after one of the shots was fired you jumped into your cart and drove between D and B toward the administration building.

A. Yes, sir; that is when I called Mr. Kowalski's attention about the cart.

Q. That is not the evidence you gave?—A. No, sir.

Q. You did not get on your cart?—A. No, sir; I never heard one shot and jumped on my cart and drove off.

Q. Do you know who sounded the bugle?—A. No, sir.

Q. Who sounded it; do you know?—A. I don't know, sir.

Q. In your testimony taken before Mr. Kowalski you state:

I don't know whether inside or outside. I had just blowed my lantern out; I was afraid that they might see me and shoot me, or shoot at my lantern and hit me.

A. What was that? I didn't hear the bugle or the shooting?

Q. The sounding of the bugle.—A. I did, sir. I was asked what direction that bugle call went, and I said I thought toward the east.

Q. And you could not see the bugler?—A. No, sir.

Senator FOSTER (reading):

Q. You don't know whether he was inside or outside?—A. No, sir.

Q. Do you know whether he was to the east or to the west of the main gate?—

A. The sound seemed to me that it came from the east of the main gate; but as soon as this bugle sounded all the rest of the bugles blowed, the same as when they have a fire drill—every company.

The WITNESS. The same as when they had a fire drill; yes, sir.

By Senator FOSTER:

Q. How long after the first bugle sounded did you hear the second and third bugles sound?—A. Right after that; just a few seconds.

Q. Just a few seconds?—A. Yes, sir; just a few seconds, and that was the time the men commenced getting up at all the quarters.

Q. Did you hear a single man after you heard the first shot, and until you reached the administration building, yell out or call out or say anything?—A. No, sir; I could only hear the men upstairs waking up each other.

Q. That is all you heard?—A. That is all I could hear; yes, sir.

Q. That was a dark night?—A. Yes; pretty dark.

Q. Could you see a man standing on the porch from the rear of Company C's quarters when you were taking up that ash barrel?—A. No, sir.

Q. And that was the time you heard the first shot, was it not?—

A. After I emptied the can I heard the first shot.

Q. Did you look down in that direction to see if there was any firing from any of those porches?—A. Yes, sir.

Q. You looked down?—A. Yes, sir.

Q. What caused you to look down? What was the occasion?—A. I never thought of looking at the porches, but while I was looking down here [indicating]—right along here—I could see those porches together.

Q. Don't you know it is utterly impossible for you that night, from the spot where you were standing, to see a man standing on the rear porch of quarters 36?—A. Yes, sir; it would be impossible.

Q. Could you have seen a man, or two or three men, standing on the rear porch of those quarters?—A. No, sir; it was pretty dark; but I could have seen them firing their pieces.

Q. I am talking about seeing the men now. Could you see a man or a set of men standing on the rear porch of Company C?—A. No, sir.

Q. Could you see a man or men standing on the rear porch of the quarters of Company D?—A. No, sir.

Q. When you heard the first shot, did it surprise you or alarm you?—A. A little bit.

Q. Why?—A. Well, I don't know.

Q. You heard shots frequently?—A. I was not much surprised when I heard the first shot, but I thought I had better put my lantern out.

Q. You heard shots frequently at night around Brownsville, didn't you?—A. No, sir; not very often; it is against the law.

Q. It is against the law to shoot, and there is very little shooting done at night?—A. No, sir.

Q. You have never heard much shooting at night?—A. That night I did.

Q. But at night generally?—A. No, sir.

Q. That is against the law, and they enforce the law pretty strictly, do they?—A. Yes, sir.

Q. It was a very unusual thing for you to hear shooting at night, was it not?—A. Yes, sir.

Q. And on account of it being unusual, you were a little surprised, and you were a little uneasy when you heard those shots that night?—A. Yes, sir.

Q. And you considered it the part of discretion to blow out your lantern?—A. Yes, sir.

Q. You were standing in the light of your lantern?—A. Yes sir.

Q. Well, standing in the light, would not that obscure and make it more difficult for you to see parties on those porches?—A. Yes, sir.

Q. Or anywhere on the line of that road?—A. As far as D Company. I could see a man all around here [indicating]. I could see them coming around there.

Q. If anyone had gone on the rear porch of B Company you say you could have seen them?—A. No, sir.

Q. Could not have seen them?—A. While I was there with my lantern lit; no sir.

Q. Could not see them?—A. No, sir.

Q. Then the only reason you say that no men were in the rear porch of those quarters or in that road or on that wall is because you did not see the flashes of the guns?—A. Yes, sir; and because I was working here ten minutes. I worked there ten minutes before the shooting, and came across this road like that [indicating].

Q. Where you were working, could you have seen 36 quarters or C quarters or D quarters?—A. Yes, sir; but I never paid any attention to the quarters before the shooting. I was working.

By Senator BULKELEY:

Q. You worked behind both barracks, didn't you?—A. Yes, sir; I worked behind both barracks. Before I got away I had been behind these barracks, working ten minutes. I drove off and came to B and worked ten minutes there, and came across between the ash can and the barracks.

Q. Could not men from the barracks have gotten out over the wall that night without your seeing them?—A. I think so; yes, sir; before I got to that place.

Q. When you were at that place, could not they have gotten over that wall without your seeing them?—A. I could have seen them if they had got out while I was working there that ten minutes. I was pretty close to the wall.

Q. Could you have seen a crowd of men get over the wall down at barracks 36?—A. No, sir.

Q. Could you see them at quarters C?—A. No, sir.

Q. Could you have seen them at quarters D?—A. No, sir; only right there in front.

Q. Only right there in front of Company B?—A. Yes, sir.

Q. Now, don't you know whether any men got over the wall or not, do you, while you were there?—A. No, sir.

Q. You don't know, then, whether any men fired from those barracks or not?—A. But they never got out while I was working over here [indicating].

Q. Then, I say, you don't know whether any men fired from any of these rear walls, rear porches, or not, do you?—A. Yes, sir.

Q. How do you know it?—A. Because I could have seen the flashes of the guns.

Q. That is the only reason?—A. Yes, sir.

Q. Were you watching, expecting the flashes of guns?—A. No, sir. I could not even see the flash of guns here [indicating].

Q. You say you could?—A. No; I could not.

Q. Why couldn't you?—A. Because there were too many houses.

Q. Houses all along that street?—A. Yes, sir; there are three or four along here.

By Senator WARNER:

Q. When you speak of a street he speaks of the alley between Washington and Elizabeth streets?—A. Yes, sir.

By Senator BULKELEY:

Q. Do I understand you that the only reason you say that no firing was had from the rear of those barracks or from that wall is because you did not see the flash?—A. Yes, sir; I could have seen the flash inside if the shooting had taken place here.

Q. But suppose the shooting had taken place down here [indicating]?—A. Outside?

Q. No; on the inside.—A. Yes, sir; I could have seen that, too, right there. The road is right there.

Q. Were you looking in that direction at that time?—A. Yes, sir; I could see that direction, too.

Q. Suppose the shooting had been taking place down here [indicating].—A. I should have turned around on account of the noise.

Q. If you turned around after you heard the noise, you would not have seen the flash, would you?—A. If there had been many shots; yes, sir.

Q. Then this fusillade was down here in this alley?—A. Yes, sir.

Q. And then continued in the direction of Washington street?—A. I don't know, sir; but I heard it all along here [indicating]. I drove away from here.

Q. When you were down here in front of barracks D Company and stopped there, could you locate with any positiveness or distinctness where the shots were being fired?—A. No, sir. I could hear that they were taking place right along here [indicating]; that is all.

Q. Did it stop right there?—A. I don't know.

Q. Are you right certain that the first shots were not up beyond the commissary-sergeant's quarters?—A. Oh, no.

Q. Certain of that?—A. Yes, sir; I am certain of it.

Q. You are absolutely certain?—A. Yes, sir.

Q. Did you hear any shots in that direction at all?—A. No, sir; not one.

Q. And you are certain none were fired from there?—A. None.

Q. If they had been fired you would have heard them?—A. Yes, sir.

Q. Did you hear any shots down in the direction of the Allison saloon, away up here some place [indicating]?—A. No, sir; that is close to where I live, sir, about a block away.

Q. You heard no shot that night in that direction?—A. No, sir.

Q. You heard the bullets whistling?—A. Into the reservation; yes, sir.

Q. In your affidavit you stated that those bullets were running parallel with the wall, I believe.

Senator FORAKER. Toward the river.

A. No, sir.

By Senator FOSTER:

Q. In which direction were those bullets going when you heard them?—A. The first bullet?

Q. All the bullets you heard.—A. Well, they all went from down town; all the bullets were fired from town.

Q. But what direction?—A. Those that I heard were fired into the reservation.

By Senator OVERMAN:

Q. Toward the administration building?—A. Yes, sir.

By Senator FOSTER:

Q. Were they going in the direction of the hospital or going in the direction of the administration building?—A. In the direction of the administration building.

Q. Where were you standing when you heard those bullets whistling?—A. Right at this point here [indicating].

Senator FORAKER. In the rear of B?—A. In the rear of B barracks.

By Senator FOSTER:

Q. There was no danger of those bullets, if they were shot from the alley there, striking anybody in the barracks, as the houses were between the party shooting the bullets and the barracks, were they not?—A. Sir?

Q. The houses were between the parties shooting and the barracks, were they not?—A. Yes, sir.

Q. Then the bullets must have been very high up.—A. They were pretty high through the air; yes, sir.

Q. How high would you judge them to be?—A. I don't know, sir; but I could only tell that they passed over the quarters—the roofs of the quarters.

By Senator WARNER:

Q. Of the headquarters?—A. No, sir; the soldiers' barracks.

Q. Passed over the roofs of the barracks?—A. Yes, sir.

By Senator FOSTER:

Q. When you heard the bullets whistling over the barracks, was that the time you blew out the lantern?—A. No, sir; I had already blown out my lantern.

By Senator OVERMAN:

Q. Whistling over what barracks; all of them, or just one barracks?—A. They were coming this way, in this direction [indicating].

Q. Over D or B?—A. Between B and D.

By Senator FORAKER:

Q. That is, they came diagonally across the corner, from the neighborhood of the Cowan house toward the administration building?—A. Yes, sir.

By Senator FOSTER:

Q. Can you tell or not from the whistling of a bullet which direction that bullet is going?—A. Yes, sir.

Q. How?—A. By the way the way the whistling is going.

Q. You stopped then and listened to the whistling?—A. I never stopped to listen—I heard it.

Q. And you paid enough attention to it to tell the direction the bullet was going?—A. Yes, sir.

Q. And at that time you had put out your lantern, fearing that you would be shot?—A. I had already put out my lantern.

Q. You say you had already put out your lantern, fearing you would be shot?—A. I put out my lantern when I heard the first two shots.

Q. Did you make any statement or give any testimony before the court-martial on the question of the direction that the bullets were going?—A. I don't remember—oh, at Fort Sam Houston?

Q. At Fort Sam Houston.—A. Yes, sir.

Q. In that testimony how many bullets did you say you heard?—A. In the first place, I could not recollect how many bullets I heard, but while I was at the administration building, behind the tree, I think I heard about three more shots go in the reservation.

Senator FORAKER. Do you mean shots or bullets?—A. Bullets.

By Senator FOSTER :

Q. Then when you got to the administration building you heard more bullets whistling over?—A. Yes, sir; about three more.

Q. That was the time you were hiding, concealing yourself behind the tree to keep from being shot?—A. Yes, sir.

Q. You might possibly be mistaken in the number of bullets you heard?—A. I said about three shots, about three bullets—I am not sure about it.

Q. Were they all passing over at the same time, or one after the other?—A. One after the other the bullets were.

Q. About how long after each other did the bullets follow?—A. Well, there was first one and then another one and right after that another one.

Q. Did they seem to be following in the same course and in the same direction?—A. Yes, sir.

Q. One right after the other?—A. Yes, sir.

Q. In the same direction and, as nearly as you can judge, about the same distance from you?—A. Yes, sir.

Q. How long did you remain then at the administration building?—A. About five minutes.

Q. Then what did you do?—A. I turned around and came back to D Company and finished my work there.

Q. This company here [indicating]?—A. Yes, sir.

Q. Were the companies formed when you had gotten there?—A. The men were all scattered along the fence there at that time. The firing had ceased in the town.

Q. You just continued your work and finished your job that night?—A. Yes, sir.

By Senator OVERMAN :

Q. Are you a carpenter?—A. Yes, sir.

Q. Take this rule and tell me the length of one of those quarters. That is on the scale of 30 feet to the inch. Measure B quarters and tell me the length of it.—A. That is 5 inches and a quarter—about 150 feet long.

Q. About 150 feet, is it?—A. Yes, sir. How many feet to the inch—you said 30?

Q. Thirty.—A. About 150.

Q. How many sinks did I understand you to say there were behind there?—A. Only one sink behind there.

Q. Only one sink?—A. Yes, sir.

Q. And the coal house?—A. And the coal house, about 4 by 6.

Q. What was the sink?—A. The sink I said about 12 or 14.

Q. And the oil house?—A. The oil house, 4 by 6, I think.

Q. The wood shed, did you say?—A. The wood shed, I said, about 6 by 10, something like that.

Q. Were those the only houses back there?—A. Yes, sir.

Q. Only one sink?—A. One sink and this wood shed and the oil house—oil shed.

Q. How far was the sink from the oil house?—A. About 80 feet.

Q. About 80 feet?—A. Yes, sir.

Q. It was nearer the eastern end of B barracks than the western end, was it?—A. No, sir; the western end. The sheds were right here [indicating].

Q. The sheds were right here, about where that street is?—A. Right here were the sheds—the oil and the wood shed.

Q. Right where that letter A is?—A. No; right where the figure 4 is, and they are all in the same place, right near the alley.

Q. When you were here at this point which you have marked, your vision, looking toward town, toward the Yturria house, would be obstructed by this, right here?—A. No, sir; not much.

Q. You said you were here at this point where you marked it?—A. Yes, sir. You see the road is pretty wide there. On the other side of the road is the oil shed and the wood shed.

Q. If you were looking straight out Elizabeth street it would not obstruct you, but if you were looking diagonally across?—A. Yes, sir; I could see plain between this and the sink.

Q. Looking over this way you could see the Yturria house, but you could not see the Cowen house, could you? Could you see the Cowen house, marked No. 2?—A. No; I could not see the Cowen house.

Q. You could not see the Cowen house at all?—A. No, sir; I could not see much of it. Of course in the night I could not see any.

Q. Where does the road run in the rear of those barracks—between the coal house and the sink, or between the wall and the sink?—A. No, sir; between the sinks and the barracks.

Q. What is there between the coal house and the sink and the wall?—A. Between the sink and the wall, about 3 feet.

Q. A pathway?—A. Yes, sir.

Q. Soldiers could have gotten over the wall from behind that oil house and you not have seen them, could they not?—A. Yes, sir; they could.

Q. And they could have gotten over behind the sink and you not have seen them?—A. After I left the sink.

Q. No; while you were there?—A. No, sir; not while I was working there.

Q. While you were working here [indicating]?—A. I could have seen them go across the road.

Q. Suppose they had been in between the wall and the sink; you could not have seen them?—A. No, sir.

Q. They might have been along that wall or that little pathway and you not have seen any of them climb the wall?—A. Yes, sir.

Q. Suppose you were standing by that wall—how tall would it be?—A. About up to here—about 4½ feet high.

Q. You would be about a foot higher than the wall?—A. Yes, sir.

Q. And if the men were crouching behind the wall, out in the street, you could not see them?—A. No, sir.

Q. What were you doing at the time you heard the first shot?—A. I was emptying the ash can.

Q. You were emptying the ash can?—A. Yes, sir.

Q. You had taken it up?—A. I had taken it up and emptied it into the cart, and I went to set it on the ground, when the first shot went off.

Q. You were emptying it into the cart when you heard the first shot?—A. No, sir; I had already emptied it.

Q. What were you doing with the can?—A. It had ashes in it.

Q. What were you doing when the first shot was fired?—A. I was setting it on the ground.

Q. Where were you setting it, next the barracks or next the oil house?—A. Next to the barracks.

Q. Then you must have had your back to the oil house?—A. To the wall.

Senator WARNER. He has stated he was looking toward the city.

A. After I had dumped the can I took the can this way [illustrating] and set it down, and then I heard the first shot.

By Senator OVERMAN:

Q. Setting down the can next to the barracks or next to the oil house?—A. Next to the barracks, right close to this corner, about 10 feet away from there, 8 or 10 feet away from the corner.

Q. You were in a stooping position when you heard the shot?—A. Yes, sir.

Q. So you were not looking out to the town at all?—A. No, sir; not when I heard the first shot.

Q. And you were not looking at the porches. You were in a crouching or stooping position?—A. Yes, sir.

By Senator FOSTER:

Q. I believe you stated that you met the sentry that night just as you came out of Company B's quarters?—A. Just as I went in Company B's quarters.

Q. Just as you went in Company B's quarters?—A. Yes, sir.

Q. Are you positive on that?—A. Yes, sir; I am positive that I met a sentry.

Q. A sentry just as you were going in?—A. Yes, sir; he was coming this way.

Q. Just as you were going into the quarters of Company B?—A. Yes, sir.

Q. And that is the only time you saw him that night?—A. Yes, sir.

Q. You are certain of that?—A. I saw him afterwards, when he was with Major Penrose back of D Company's barracks, after the firing had ceased.

Q. That is the only time?—A. That is the only time; yes, sir.

Q. You saw him after that?—A. That was the second time I saw him that night.

Q. And that was after the firing had ceased?—A. After the firing; yes, sir.

Q. You met him, then, as I understand you, right in front—A. Of D Company's barracks, between D and the sinks here [indicating].

Q. D barracks?—A. Yes, sir.

Q. I thought you said B barracks.—A. The first time I met him; yes, sir.

Q. The first time you met him?—A. In front of B. The second time I met him, after the firing, it was here [indicating].

Q. After the firing?—A. Yes, sir.

Q. You were going in then to get some water?—A. The first time I met him; yes, sir.

Q. Are you positive of that?—A. Yes, sir.

Q. Let me read you what you swore to before Mr. Kowalski—the questions and the answers. I refer to page 33 of part 2 of Senate Document No. 155:

Q. Where were you at about 12 o'clock that night?—A. I was opposite B Company.

Q. Is that about opposite the main gate on Elizabeth street?—A. Yes, sir; at the corner of the barracks—right near the kitchen.

Q. That is the barracks of Company B?—A. Yes, sir.

Q. What were you doing there?—A. I was emptying a can of ashes.

Did you swear to that?—A. Yes, sir.

Q. What vehicle did you have there?—A. I had a dump cart and one mule.

Did you swear to that?—A. Yes, sir.

Q. Where had you been just before your arrival at the corner of the barracks?—A. I had been right at the rear of B Company.

A. Yes, sir.

Q. How long had you been working there?—A. For about ten minutes.

A. Yes, sir.

Had you seen any men out there between the wall and the barracks?—A. No, sir.

Q. Where was the sentry?—A. I met him when I was emptying that can.

A. Well, sir, that is a mistake.

Q.

He passed by the same as usual.

That is a mistake, is it?—A. I do not doubt that I said it, but I think I was confused at the time. At one point I was so confused before Mr. Purdy that I came pretty near saying that the first shot was fired from inside the reservation, when it was not. I called his attention to it.

Q. What confused you especially on that occasion?—A. Because after I had stated that the first shots were fired out in town he asked me this way, "Well, Mr. Tamayo, don't you think that the first shots were fired from inside of the reservation?" and at the same time I was so nervous, and paid no attention to the language, I was going to say "Yes," but I said "No, sir."

Q. You were going to say "Yes," but you said "No, sir?"—A. Yes, sir; I was going to say "Yes," but that was not the truth.

Q. Why might you not have said "No, sir," as well as "Yes, sir," if you were so confused when you gave this answer also?—A. I said "Yes" first, and then he said, "Well, wait a minute; let me get my stenographer." He went outside and when he came back I made my statement again the way I had made it before.

Q. Now, in this examination the question was asked you:

Q. Do you know whether those shots were inside or outside the wall?

A. I think I said outside of the wall.

Q. Was that question asked you?—A. I don't remember, sir.

Q. Were you asked that question, and did you answer:

I think they were outside?

A. Yes, sir.

Q. Were you confused then?—A. No, sir.

Q. "Do you know?" Were you confused when you answered that question, "Do you know?"—A. About what?

Q. When you answered that question before Mr. Kowalski, were you confused when the party propounding the question asked you, "Do you know?" Were you confused at that time?—A. If I knew what that is, what he wanted to know——

Q. Whether the shot was fired from the inside or the outside.—A. Yes, sir.

Q. You were confused?—A. I knew where the shots were.

Q. Were you confused when you gave that answer?—A. No, sir.

Senator FORAKER. Now put the other question to him. You did not get the answer.

By Senator FOSTER:

Q. Your answer was, "I think they were. If they had been inside I could have seen the men."—A. Yes, sir; I stated that twice before him.

Q. You were not confused, then, when you made that answer?—A. No, sir.

Q. When were you confused?—A. When I first stated that the first firing had taken place outside, in town, and then he turned around and asked me those questions; that was the time.

Q. If I understand you correctly, the first answer that you made to him you said that they were fired from the inside of the barracks, did you?—A. No, sir; outside.

Q. I thought you said that you were confused?—A. I was confused the second time, when he asked me the same question again, but he changed it a little, and said if I did not think the first shot was fired from the inside of the reservation; and I was so very nervous that I paid no attention to him.

Q. Well, you are not confused or nervous now, are you?—A. No, sir; I am not.

Q. Were you confused or nervous when you made this affidavit on the 14th of August, 1906, before Captain Lyon?—A. I think I was, a little bit; yes, sir.

Q. You think you were a little bit nervous?—A. Yes, sir.

By Senator FORAKER:

Q. You have been examined now repeatedly?—A. Yes, sir.

Q. So you are not any longer nervous about it?—A. No, sir.

Q. If I understand you rightly, I got the impression that Mr. Purdy seemed anxious to have you say that the firing was inside the walls?—A. That is it; yes, sir.

Q. Wanted to write it down that way?

Senator WARNER. I submit that is not——

Senator FORAKER. I want to know whether that is so or not.

Senator WARNER. He has not so answered.

A. I don't know what was his idea.

By Senator FORAKER:

Q. You don't know what his idea was?—A. No, sir.

Q. You told us that you answered that question and he asked you

again, and that you insisted that it was outside and not inside?—A. Yes, sir.

Q. Well, we will not say anything about what his idea was; but that is the fact, is it?—A. Yes, sir.

Q. But you insisted that it was outside?—A. Outside; yes, sir.

Q. And not inside?—A. No, sir.

Q. There was not anybody else there for you to insist upon that with?—A. No, sir.

Q. Now, was it or not outside?—A. Yes, sir; it was outside, in town.

Q. And were you or not in a situation when that first firing was heard, when it commenced, to see the shots and locate the shots?—A. Yes, sir.

Q. If they had been inside?—A. Yes, sir.

Q. You know they were not from the barracks or back porches?—

A. Not while I was there; no, sir.

Q. And you remained there as long as the ash cart—

Senator WARNER. If you are going over this, I submit—

Senator FORAKER. I am going to correct a few things that I think were a little confused.

Senator FRAZIER. I want to ask him two or three questions before you reexamine. Suppose I ask him them now?

Senator FORAKER. All right.

By Senator FRAZIER:

Q. Witness, you say that the firing that you located from the sound was in the alley between Washington and Elizabeth streets?—

A. Here is where I located the firing, right here, the first shots [indicating].

Q. Is that built up all along there with houses?—A. Yes, sir.

Q. On what you call the west side of that alley?—A. Yes, sir.

Q. The buildings are solid there?—A. Yes, sir.

Q. Now, in what direction does that barracks' road run?—A. The barracks road runs that way [indicating].

Q. What do you call it—east or west, or what?—A. Well, I think this is northeast.

Q. Northeast and southwest?—A. Yes, sir.

Q. What direction does the alley run?—A. The alley runs this way, from south to north.

Q. Now, if the firing occurred in here [indicating], and the men doing the firing were shooting into these houses—A. I don't know.

Q. I am not asking you whether they were or not; I am asking you a question. If they were shooting into these houses on the west side of this alley, would not the bullets, if they passed through the house or went over the house, cross the point of the reservation down toward the Rio Grande River?—A. Yes, sir; very easy.

Q. So that without shooting toward the barracks, if they were shooting at these houses the bullets would go that way?—A. Yes, sir.

Q. Did you know that guard whom you met that night?—A. No, sir; I did not know him.

Q. You did not recognize him?—A. No, sir.

Q. Had you cleaned out the sink back of B quarters when you met him?—A. Yes, sir; I had already cleaned that out.

Q. You were just going in to get a drink, I believe you said?—A. To get a drink.

Q. And the guard was coming down toward B Company?—A. Toward D Company.

Q. Toward D Company?—A. Yes, sir.

Q. Was coming in that direction?—A. Yes, sir.

Q. And what is his beat there, does he go around B barracks?—A. No, sir; he starts here, and he goes around this way [indicating].

Q. When he passed you he came west toward D Company barracks?—A. Yes, sir.

Q. And how long did you stay in getting a drink?—A. Oh, but a few seconds.

Q. A few seconds?—A. A few seconds.

Q. And you came out immediately?—A. Came out immediately.

Q. And drove your wagon down to the ash barrel at the west end of B barracks?—A. Yes, sir.

Q. And it was while you were emptying that ash barrel that you heard the first shot?—A. I had already emptied the ash barrel; yes, sir.

Q. When you heard the first shot?—A. Yes, sir.

Q. If anyone had hollered immediately after that first or second shot, anywhere around the B barracks or that end of the B barracks, you would have heard them?—A. Yes, sir.

Q. You would have heard them?—A. Yes, sir.

Q. There was nobody hollered at all?—A. No, sir.

Q. And no gun was fired?—A. Not from inside; no, sir.

By Senator OVERMAN :

Q. Describe that sentinel—what sort of a looking man he was, if you can.—A. I think he was a tall man and a stout man.

Q. A tall, stout man?—A. Yes, sir.

Q. Was he a very black or a light-colored man?—A. I think he was pretty black.

Q. And you think he was tall. About how tall should you judge him to be?—A. He must have been pretty near 6 feet tall.

Q. That is, the man you saw, the sentry, a man 6 feet tall?—A. He was quite a tall man.

Q. And a stout man?—A. Yes, sir.

Q. Do you know a man by the name of Howard?—A. I don't know him by his name.

Q. Who said he was the sentry on that occasion—you have seen him?—A. No, sir.

Q. Haven't you seen a man by the name of Howard, who said he was a sentry?—A. If that was the man I met with Major Penrose there that night, I think I did—Howard?

Q. He is a man about your size, isn't he?—A. Well, I don't know.

Q. Now, you met Howard, and he is a man just about your height, isn't he?

Senator HEMENWAY. I understand the witness to say that he does not know.

By Senator OVERMAN :

Q. I am cross-examining the witness; I want to see if he does not know?—A. The man I met when I met Major Penrose that night, I think he was a tall man.

Q. The man you met where?—A. With Major Penrose—between D Company and the sink.

Q. He was a tall man, but I asked you if you had not seen a man by the name of Howard?—A. No, sir.

Q. Who claimed that he was the sentry that night?—A. No, sir; I have never seen him.

Q. You have not seen him?—A. No, sir.

Q. Are you positive that this man was a tall man?—A. The man that I saw; yes, sir.

Q. Now, how do you know that he was a sentry?—A. Well, he had his gun on his shoulder.

Q. Is that the only reason?—A. And he had a belt here, and he was walking the same post that the sentries used to walk every night.

Q. Where was he walking?—A. He was walking along here [indicating] from east to west.

Q. And when you went in to get a drink—when you came out—how long had you been in that building?—A. I must have been about ten seconds.

Q. Ten seconds?—A. Yes, sir.

Q. And in ten seconds that witness had disappeared?

Senator WARNER. You do not mean that witness, that man?

By Senator OVERMAN:

Q. In ten seconds that man had disappeared?—A. Yes, sir; I never saw him any more.

Q. Did you look for him?—A. No, sir; I never paid any more attention to him.

Q. If he had gone on his beat, you would have seen him, wouldn't you?—A. I don't know.

Q. You were here [indicating]?—A. I went in here [indicating].

Q. And his duty was to walk right along here [indicating]?—A. Right along here, and return just here [indicating].

Q. Did he have time to walk around that corner and turn around before you came out?—A. No, sir; I don't think he did.

Q. Did not have time to go out around the barracks and get out of sight, and yet when you came out he was out of sight?—A. Yes, sir; I never saw him any more.

Q. You are positive that he didn't have time to go around that barracks B?—A. I don't think he did. When I came out I never paid any attention to the sentry. I walked back to my cart.

Q. Then, if he did not have time to do that while you were in the barracks, he must have gone out either around the building or out in town?—A. Maybe so.

Q. That is probably so, isn't it?—A. Yes, sir.

By Senator FORAKER:

Q. This cart—you have described it as one of these iron night-soil carts?—A. Yes, sir.

Q. Did that or not make a good deal of noise?—A. It makes a good deal of noise; yes, sir.

Q. When you are moving off?—A. Yes, sir.

Q. And there was a good deal of noise from the firing as you moved off?—A. Yes, sir.

Q. Now, just one word about these uniforms. You stated that the police wore blue uniforms?—A. Yes, sir.

Q. Do you know what kind of uniforms they wore during hot weather?—A. Excuse me. In hot weather they wear a new uniform now, called a khaki uniform.

Q. The khaki uniform; they wore that in the summer of 1906, didn't they?—A. Yes, sir.

Q. Have you any interest at all in this Twenty-fifth Infantry, this colored regiment?—A. No, sir.

Q. You never belonged to it?—A. No, sir.

Q. Never served with it?—A. No, sir.

Q. They had not been there long enough for you to get acquainted with them?—A. No, sir.

Q. Tell us whether or not, if you remember, there are any trees in front of these barracks, toward the parade ground?—A. Toward the parade ground; yes, sir. There are a good many trees around here.

Q. A line of trees right in front of the barracks, is there?—A. Yes, sir; and then there are more right in front of the administration building.

Q. In front of the administration building also?—A. Yes, sir; and some in front of the officers' quarters.

Q. It was about two years ago when you were going home one night, carrying your lantern, and somebody took a shot at you?—A. Somebody shot at the light, not at me; they did not know who I was.

Q. How did you know whether they shot at you or the light?—A. I don't know.

Q. You heard the bullet and you heard the gun, or the report of it?—A. Yes, sir; but that was from outside.

Q. And you put your lantern out?—A. Yes, sir; but that was from outside, in town.

Q. That was an outside shot into the reservation?—A. Yes, sir.

Q. At your lantern or at you?—A. Yes, sir.

Q. And you thought of that when you heard the first shot?—A. And that night reminded me of the night when they shot at my lantern outside of the reservation; that is the reason I put it out.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Just one question or two. The morning of the 14th of August you learned that it was charged that the colored soldiers had shot up the town of Brownsville, did you?—A. No, sir; not yet.

Q. Didn't you hear it the next morning?—A. No, sir; because I never went out in town that morning.

Q. You heard it in short time afterwards?—A. Yes, sir.

Q. You knew the man that was living out in the alley, didn't you?—A. I knew all those families that were living there. I know the names but I am not much acquainted with them.

Q. No; but you know the names?—A. Yes, sir.

Q. You went around to see whether their houses had been shot into, didn't you?—A. No, sir; I never went around.

Q. The telegraph office is right opposite the gate at the corner of Elizabeth street and the barracks?—A. Yes, sir.

Q. Did you go over there to see if that had been shot into?—A. No, sir.

Q. Did not go to any of those places?—A. No, sir; I never went around to see any of those buildings.

By Senator BULKELEY:

Q. How long after you came into the reservation and began your work at the sink—where is the first sink that you worked at?—A. The first sink when I got to the barracks, that is this one here, C Company.

Q. From the time you commenced to work there, from that sink until you left here, how long were you on the ground there?—A. It must have been about twenty-five minutes.

Q. About twenty-five minutes?—A. Yes, sir.

Q. You were working first in one place?—A. All this time I had my lantern lit.

Q. And your lantern was lit?—A. Yes, sir.

Q. And if there had been a number of men around there on the road or between the porch and those buildings you would have seen them wouldn't you?—A. No, sir.

Q. As you moved along here, if there were any men scattered along the road?—A. Oh, yes; I could have seen them.

Q. You would have seen them, wouldn't you?—A. Yes, sir; I was working right in front.

Q. So that from the time you began your work here, twenty or twenty-five minutes, with the exception of the sentry whom you have mentioned, you saw nobody?—A. No, sir; nobody.

Q. When you were standing here—it was a dark night, you say?—A. Yes, sir.

Q. And because of it being a dark night, if there had been any firing done from these porches, would you not have seen the flashes better than you would if it had been a light night—would you not have been more likely to see the flash of a gun?—A. Yes, sir; I could have seen the flash of a gun very easily.

Q. In the darkness you would have seen it very easily, wouldn't you?—A. Yes, sir.

Q. So that the fact that you didn't see any flash of a gun—A. No, sir; not while I was standing here.

Q. While you were standing here, or at work, or at any time you did not see the flash of a gun from this porch?—A. No, sir.

Q. And if there had been one you could have seen it?—A. I could have seen it.

Q. You would have been likely to have seen it?—A. Yes, sir.

Q. This alleyway is not built up solid, is it?—A. No, sir; only lumber houses all along there.

Q. Now, here is the official map that came with the President's message [showing witness a map].

Senator FRAZIER. I am not familiar with it. I was asking him, and he said it was.

By Senator BULKELEY:

Q. This is Elizabeth street and this is the alley, and these are apparently buildings. How high are those buildings?—A. Here is the gate?

Q. Here is the gate, here is Elizabeth street, this is the alley, this is Washington street, and there is apparently the first house.—A. They are all pretty low houses. They are about 16 or 20 feet high.

Q. There is one?—A. Yes, sir.

Q. And there is another. That house that is set back a little way, evidently, and that house, is that close up to the street?—A. Yes, sir.

Q. And that one?—A. That is close to the alley, I think.

Q. There seems to be a porch out there. Now, what is that?—A. A little picket fence along there, that is all.

Q. And that is the Cowen house, isn't it?—A. Yes, sir.

Q. And that is the way it is built up?—A. Yes, sir.

Q. On the other side of the alley there are no houses at all?—A. No houses at all.

Q. So that in all the time, nearly twenty minutes or more, that you were at work in the back of these barracks and moving along the road you never saw anyone but the sentry?—A. That is all; yes, sir. I never saw anyone else.

Q. And you were on the road all the time. Did you go into those buildings or sinks, or the sheds, or anything?—A. No, sir.

Q. You did not have to go into those?—A. No, sir; the only building I went in was B Company, to get a drink of water.

Q. You went in here to get a drink of water?—A. Yes, sir.

By Senator OVERMAN :

Q. How near was the water to the door?—A. I had to go across the road.

Q. I mean to the door of the building, inside the building?—A. Well, there is a porch about 8 feet, and then as soon as I crossed the porch there was a door there, and at the left-hand side as you go in there was a water cooler, where the men used to drink.

Q. There was a water cooler right at the door?—A. Yes, sir; and a cup; so I got a drink right there.

Q. You could stand in the door and reach right round?—A. No, sir.

Q. Stepped just inside?—A. Just stepped inside and got my drink of water.

By Senator BULKELEY :

Q. You don't know what became of the sentry after you went into the building, you never saw him again?—A. No, sir; I never saw him any more.

Q. The man you saw with Major Penrose, was he the same man you saw before?—A. I could not say, but they said it was the sentry that was on that post. That is what made me think that was the same man that I met, but I did not know his name that night.

Senator FORAKER. When we get the printed record of this man's testimony, as given before the court-martial, I may want to put in that printed record of his testimony. If so, I reserve that right. I suppose we will have this all in the other printed volume.

At 4 o'clock and 10 minutes p. m. the committee adjourned until Saturday, March 16, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Saturday, March 16, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Hemenway, Bulkeley, Warner, Foster, Overman, and Frazier.

TESTIMONY OF L. H. PRINTZ.

L. H. PRINTZ, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please state your name in full.—A. L. H. Printz.

Q. Where do you reside?—A. San Antonio, Tex.

Q. You are a civilian, are you?—A. Yes, sir.

Q. Not in the Army?—A. No, sir.

Q. Never have been in the Army?—A. Yes, sir.

Q. In the United States Army?—A. During the civil war.

Q. You are not in the Regular Army?—A. No, sir.

Q. Now, you were called here because of some information that I was given in regard to what you might be able to testify about in connection with the shooting affray that occurred at Fort Brown, Brownsville, Tex., on the night of August 13, 1906. Have you any information in regard to that which would help us to ascertain who did that shooting?—A. I have it only from hearsay.

Q. Tell us what you have in that way?—A. I was standing on the platform at Hidalgo, Tex., somewhere along between the 19th and 20th or 23d of August.

Q. Of what year?—A. 1906; and from the conversation of two gentlemen there—I presumed that they were railroad men, from their conversation and their dress; that indicated that they were railroad men—they remarked that the citizens there at Brownsville had made threats that they would shoot over the barracks, to keep the negro soldiers from coming to town.

Q. With a view to accomplishing what?—A. Well, they did not really say what purpose it was for.

Q. Were they people who belonged in Brownsville?—A. Now, Senator, I could not say, because it was a general talk there, just a general conversation, talking with them, and I did not ask them, not expecting anything to come up about it.

Q. Well, is that all they said?—A. Well, that is.

Q. Did they profess to have knowledge about it?—A. From their conversation they seemed to know considerable, had heard considerable talk.

Q. Have you any way of identifying those two men to us?—A. Well, Senator, I don't know. I would not know where to find them. Probably, if I would see them, I could identify them. I would not be positive.

Senator WARNER. I assume that this is possibly competent before the committee, but it is entirely hearsay, without any legal foundation.

Senator FORAKER. Before a committee we go probing around to find out if we can get clues, any way that we can secure them, and

I did not know until this witness came here what he knew or what he would undertake to testify to. All I want to know is whether or not he can identify these men. We would have to prove it by these men, of course.

Q. Do you know whether they were in the employ of that railroad, running from Brownsville up the river to Hidalgo?—A. No, sir, Senator; I could not tell you.

Q. You saw them at the depot?—A. At the depot.

Q. While you were waiting for a train?—A. Waiting for a train.

Q. And this was shortly after the Brownsville shooting had occurred?—A. Shortly afterwards—a few days.

Q. And it was being discussed, you say, with others besides yourself present at the time, as I understand it?—A. Yes, sir.

Q. And these men said that the shooting had been done by the citizens, with a view to frightening the colored troops, to keep them out of town, was that it?

Senator WARNER. Pardon me, the record will show——

By Senator FORAKER:

Q. Just what was it? Repeat that statement.—A. Well, that they intended to shoot and frighten the soldiers. It seems that they had a grudge against them for some cause or another; I don't know what; but, from their conversation, that they intended to frighten them, to shoot—to do some shooting to frighten them and keep them from coming into the city.

Q. A shooting to frighten rather than a shooting to kill?—A. Yes, sir.

Q. You heard that remark? Did these men speak as though they had personal knowledge of it?—A. Well, it seemed so from their conversation.

Q. Now, that being the case, we will have to get them, I suppose, to prove what that was.

Senator FOSTER. Has he stated who the men were?

Senator FORAKER. He said they belonged to the railroad there.

By Senator FOSTER:

Q. Did you give the names?—A. No, sir.

By Senator FORAKER:

Q. You have not been able to give us any names?—A. No, sir.

Q. All you know is that you supposed they belonged to the railroad?—A. I am satisfied they were railroad men.

Q. Do you mean men who ran as a part of the crew on the trains?—A. No; I don't think they belonged to the train. I would not be positive. They might belong to the same train.

Q. Well, two men who belonged to the railroad?—A. Yes, sir; I am satisfied they were railroad men. They were dressed like railroad men; had railroad men's clothes on.

Q. Two men who were in the employment of the railroad company have testified in regard to this matter. One is Charles B. Chase, whose testimony is found at page 91 of part 2 of Senate Document 155. He says, in giving his testimony, that he is a locomotive engineer; that he is employed on that railroad that runs in and out of Brownsville. There is only one railroad there, is there?—A. That is all.

Q. And that he was in Brownsville the night of the firing. Do you know that man Charles B. Chase, a locomotive engineer?—A. No, sir; I don't know him.

Q. What kind of looking men were these two men?—A. Well, one of them, as nearly as I can remember, was about my size, and the other one probably weighed 180 or 185 pounds.

Q. How tall are you?—A. I am about 5 feet 6.

Q. Weigh about how much?—A. My weight is about 155.

Q. These were both white men, were they?—A. White men; Americans.

Q. The other man weighed about 180 pounds?—A. About 180 or 185.

Q. How tall was he?—A. Well, he probably was a couple of inches taller—5 feet 7 or 8.

Q. How old were they, apparently?—A. Well, Senator, I don't know. I don't know as I could tell you. I did not scrutinize them very closely.

Q. Were they old men or young men or middle-aged?—A. One of them might have been about 35.

By Senator OVERMAN:

Q. What time of day was it?—A. That was some time in the afternoon; I don't remember exactly.

By Senator FORAKER:

Q. The other railroad man of whom I spoke a moment ago as having testified in this case before Mr. Purdy was Mr. Joseph Bodin. His testimony is found at page 94 of Senate Document No. 155, part 2, and he testified that he was a railroad fireman. Do you know Mr. Joseph Bodin, who has given this testimony?—A. No, sir; I do not know him. I never heard of him.

Q. Is that all you can tell us about these men?—A. Well, that is about all I can tell you, Senator.

Q. If there is anything else you can tell us we will be obliged to you.—A. Nothing else but general talk, I believe.

By Senator WARNER:

Q. You live at San Antonio?—A. Yes, sir.

Q. What is your business?—A. I have been connected with the commission business there.

Q. What is your business now?—A. Traveling—that is, soliciting shipments.

Q. For what firm?—A. The Star Commission Company, I was with, and another—

Q. Well, what firm are you with now?—A. I am not connected with either one of them just now.

Q. Are you connected with any firm?—A. No, sir.

Q. Are you doing any business now?—A. Yes, sir.

Q. What is it?—A. I have been shipping clerk with J. W. Neil there.

Q. Are you shipping clerk now?—A. No, sir; when I left there I was with W. E. Brown, furniture.

Q. What were you doing for him?—A. I was repairing, and salesman—had charge of his business.

Q. Whom did you tell this important testimony to first?—A. Oh, I told it—talked it around San Antonio there.

Q. Generally?—A. Generally; yes, sir.

Q. And what time of day was this?—A. Well, I could not give you the exact time; some time in the afternoon; I don't just remember the time.

Q. That is quite indefinite?—A. Well, I could not give you the exact time, because I do not know.

Q. Was there a train coming in or going out then?—A. Well, there was a train there then.

Q. A passenger train?—A. No, sir; it was a freight. I went from one station to the other, and it was the only train I could catch.

Q. How far is Hidalgo from Brownsville?—A. It is about 50 miles.

Q. Does the road run from Hidalgo to Brownsville?—A. Yes, sir.

Q. And to San Antonio?—A. Well, the road did not run to San Antonio.

Q. When did you get into Hidalgo?—A. I had been down there several days.

Q. When did you get there?—A. Well, I was there twice.

Q. I know, but this time?—A. I mean right along close together. I was there about the 19th or 20th or 23d; along there some time.

Q. When did you get there? You said you were there about a week.—A. I was up and down the road there; I could not tell you exactly the date.

Q. What day of the week was this?—A. I could not tell you exactly, either.

Q. What hotel did you stop at then?—A. I stopped mostly—taking my meals around with the gardeners.

Q. If you stopped all night, you took your meals somewhere?—A. I said with those people around there.

Q. What people?—A. Those gardeners and those men that raised vegetables there. It is a mighty poor place to stop down there at any hotel.

Q. What gardener did you stop with?—A. Well, if I had my books here I could tell you.

Q. You don't know the name of the party?—A. No, sir; I could not tell you.

Q. You were frequently there at Hidalgo, were you?—A. I was there twice during that trip.

Q. Well, I ask you if you frequently visited at Hidalgo?—A. No, sir; not frequently.

Q. About how often?—A. That was my first visit down that far—as far as Hidalgo.

Q. This was your first visit?—A. This was my first visit down as far as Hidalgo. I have been at Rio Grande, though.

Q. Where did this gardener live that you stopped with?—A. They live in the country there.

Q. How far from Hidalgo?—A. Some of them live about a mile—

Q. You did not stop at all of them?—A. No, sir.

Q. The one you stopped with?—A. I took one meal with—I don't believe I can tell you his name.

Q. Was he a Mexican or an American?—A. A Mexican.

Q. Do you know his name?—A. No, sir; I could not tell you his name even.

Q. How far out of Hidalgo did he live?—A. He lived something like about a mile or a mile and a half.

Q. How did you come to be out there?—A. I went out to look at some of his vegetables.

Q. You wanted to buy some of his vegetables?—A. Yes, sir.

Q. What kind of vegetables did he raise for sale?—A. He raised beans—

Q. Did you buy some from him?—A. No, sir; I did not get any from him.

Q. Did you buy any vegetables from anybody there?—A. I got some farther up at Rio Grande, nothing around at Hidalgo.

Q. I ask you if you bought anything at Hidalgo?—A. No, sir.

Q. What kept you a week at Hidalgo?—A. I was at Rio Grande most of the time. I had prospects down there; went around once in a while to look after them.

Q. Then please tell us how long were you at Hidalgo?—A. I was at Hidalgo—got there in the morning and left in the evening.

Q. Then you did not stay there overnight?—A. No, sir; I was not there overnight.

Q. You did not stay at anybody's, then, at Hidalgo?—A. No, sir; I taken a meal there with the Mexican.

Q. And you do not know the name of that Mexican?—A. No, sir; I can't tell you his name.

Q. And you bought nothing at Hidalgo?—A. No, sir; I bought nothing.

Q. And sold nothing at Hidalgo?—A. Sold nothing.

Q. What time did the train get into Hidalgo that you got in there on?—A. I really don't know.

Q. Where from?—A. The train was from Brownsville.

Q. You came in on a train from Brownsville?—A. No, sir.

Q. Where did you get on the train?—A. At Hidalgo.

Q. I know, but I ask you what train it was you came into Hidalgo on?—A. It was the train going to Brownsville.

Q. Where did you get on the train?—A. At Rio Grande.

Q. What time in the morning or evening?—A. Well, I don't know the hour.

Q. Was it the evening or the morning you got on the train?—A. The morning.

Q. Well, was it before noon?—A. Yes, sir; before noon some time; might have been 8 and 9, or 9 and 10 o'clock, along there somewhere.

Q. Which was it?—A. I could not tell you positively the hour.

Q. You know nothing more about it than this?—A. No, sir; that is all I know; only general talk.

Q. Well, this talk; you gave specific talk?—A. Well, I considered it pretty straight talk.

Q. How many persons were present and heard that talk?—A. Oh, I don't know; there were several standing around there.

Q. About how many?—A. Oh, probably three or four besides the two gentlemen.

By Senator OVERMAN:

Q. This talk was at Hidalgo?—A. Yes, sir.

By Senator WARNER:

Q. Probably three or four, or how many?—A. Well, I paid no attention to it, Senator; I could not tell you any more, because I didn't count noses.

Q. It made no special impression on you?—A. Well, the only impression it made on me was, I liked to hear the talk, liked to hear them expressing themselves.

Q. Were they talking to you?—A. They were talking to me and to others. I asked a few questions.

Q. What questions did you ask?—A. I asked them who they thought was in that, down there, and they expressed themselves just what I have told you here.

Q. Now, how old did you say these men were?—A. One of them I think would be—placing his age at about 35. The other was older; I could not tell you exactly.

Q. Americans?—A. They were Americans; yes, sir.

Q. Dressed as railroad men?—A. They were dressed in railroad men's clothes.

Q. What kind of garb?—A. They had on these blouses, railroad blouses, light jackets.

Q. Seemed to be trainmen or station men?—A. They were trainmen, from their appearance. I did not ask them.

Q. What was the conversation?—A. Well, they merely remarked—I asked who was in fault down there, and they just remarked that they believed that those people down there were in fault.

Q. They believed the people were in fault?—A. Yes, sir.

Q. What else did they say?—A. They said they understood there that they were going to do some shooting, or would shoot, to scare those negroes, keep them from coming into town.

Q. To keep them from coming into town?—A. Yes, sir.

Q. That is to keep the Twenty-fifth from coming to Brownsville?—A. They didn't say the Twenty-fifth; they said the niggers.

Q. Whatever negro troops there were, it was to keep them from coming to that post?—A. Yes, sir; that is about the remark they made.

Q. Any other remarks?—A. Oh, there was general conversation. I could not tell you everything they told me.

Q. But that is all you remember?—A. Well, we had some other conversation, just a general conversation, all along that line.

Q. You were not talking to them about commission goods?—A. No, sir.

Q. You say you were in the employ of whom when you left San Antonio?—A. W. E. Brown.

Q. And in charge of his business?—A. In charge of his business.

Q. That is furniture?—A. Yes, sir.

Q. As general salesman?—A. I had charge of his business.

Q. Did you leave his employment when you came here?—A. No, sir.

Q. How long had you been in his employment?—A. I quit—I went there about—I guess I have been with him about six weeks.

Q. When did you quit?—A. I quit when I got the summons to come to Washington. That was on the—well, I quit a day or two before that.

Q. You quit a day or two before you got the summons?—A. No, sir; afterwards.

Q. It was not before, it was afterwards?—A. Afterwards.

Q. When was that?—A. That was about the 5th, I guess, of this month.

Q. Where have you been all the time since you got the summons?—A. I was at home.

Q. You did not come right away?—A. I was just making preparations to leave there.

Q. Who summoned you?—A. The summons was from the Sergeant-at-Arms.

Q. Somebody came and served it on you?—A. No, sir; it was a telegram. I think I have it here.

Q. What was the date?

Senator FORAKER. Put it in the record.

By Senator WARNER:

Q. The date is all I care about.—A. I can give the date, if I may look at it, if you will allow me.

Q. Yes; we just want the date.

(The witness produced a telegram.)

Senator FORAKER. Let Senator Overman read it, so that it may appear in the record.

Senator OVERMAN. The telegram is as follows:

WASHINGTON, D. C., March 1, 1907.

L. H. PRINTZ,

908½ West Commerce Street, San Antonio, Tex.:

You are requested to appear before the Committee on Military Affairs of the United States Senate on Monday, March 11, 1907, at 10 o'clock, and to testify relative to matters under consideration by said committee. Your necessary expenses will be reimbursed. Will you accept this notice as service of subpoena and appear at the time named? Answer paid here.

D. M. RANDELL,

Sergeant-at-Arms, United States Senate.

By Senator WARNER:

Q. You have been here since the 11th?—A. I got here on the evening of the 10th—Sunday evening. I don't know the hour exactly; sometime in the evening it was.

Q. You have told parties that this was all you knew about the case?—A. Yes, sir.

Q. Before you took the stand you told parties that was all you knew about the case?—A. Yes, sir.

Q. And yet you remained here all this time?—A. All this time; yes, sir.

Senator FORAKER. Well, right there, when the witness came here I asked him about it, and he told me what he knew, and I spoke to the chairman—

Senator WARNER. Oh, certainly; that is all right.

Senator FORAKER. I am not going to have any reflection on me or on this witness.

Senator WARNER. I want to say that there is too much talk about reflecting. Nobody is reflecting.

Senator FORAKER. I spoke to the chairman, Senator Warren, and told him this witness had been subpoenaed here upon the strength of

a letter which I had received; that he did not have as important information as I supposed he might have; and I consulted with him as to whether to dismiss this witness or to retain him and examine him, and the chairman said I had better keep him, now that he was here, and have him testify as a witness to whatever he knew, whether he knew anything very important or not. We do not always know whether testimony is going to be of importance or not. That is how the witness came to remain here all this while, even after he had told me what he knew or what he did not know. If anybody is to blame, I am, and not the witness.

Senator WARNER. I am not blaming anyone. I just asked the question.

Senator FORAKER. I know.

Senator FRAZIER. Suppose we discharge him. It is evident he does not know anything.

By Senator FORAKER:

Q. I wanted to know one thing. I understood you to say in answer to Senator Warner that you understood this man to say that the citizens did this firing to frighten the colored soldiers, to keep them from coming to that post?—A. Yes, sir.

Q. Your first statement to me was to keep them from coming into town. Which is correct?—A. Well, I think it was to keep them from coming into the town.

Q. They were already at the post?—A. Already at the post; yes, sir.

Q. Then just about the age of these men—one man was about 35 years of age and the other was older. How much older perhaps?—A. Well, he was perhaps 50 years old, maybe, along there somewhere; I could not fix his age.

Q. He was the heavy man?—A. The tall man was the heaviest.

Q. Who was the heavy man, the older or the younger?—A. The younger man was the heaviest.

Q. The younger man?—A. Yes, sir.

By Senator OVERMAN:

Q. What kind of hair did the younger man have?—A. Well, Senator, I could not tell you.

Q. Did he have a mustache, or whiskers?—A. I think he had a little mustache.

Q. The younger man had a mustache?—A. Yes, sir.

Q. Did the older man have any whiskers?—A. I did not observe close enough to notice.

Q. Did not notice?—A. No, sir.

Q. Was he a light-complexioned man or a dark-complexioned man?—A. Mostly of them are rather sandy complexioned.

Q. I do not ask you about most of them; I ask you about this man.—A. He was kind of red faced.

Q. He was a red-faced man, was he?—A. The big man.

Q. The little man—was he a red-faced man, too?—A. He was rather more dark complexioned.

Q. You said you left Rio Grande between 9 and 10 o'clock to go to Hidalgo?—A. I don't know what time it was.

Q. How long did you stay in Hidalgo?—A. I was one day there twice.

Q. I am talking about this day.—A. I was there some four or five hours; maybe longer than that. I did not pay no attention.

Q. How far was it from Rio Grande, where you got on the train, to go to Hidalgo?—A. About 50 miles; something like that; maybe not quite so far.

Q. And you arrived there, then, about 12 o'clock?—A. Somewhere along about noon.

Q. When was this conversation that you heard?—A. This was along in the evening; along some time in the evening.

Q. Were you down there to take the train?—A. I was there waiting for the train.

Q. You were there waiting to take the train?—A. Yes, sir.

Q. Whereabouts?—A. At Hidalgo.

Q. Where were you going?—A. To Rio Grande again.

Q. Going back to Rio Grande?—A. Yes, sir.

Q. Can you tell us what time that train left?—A. No, sir; I could not tell you the time, because I didn't pay any attention to it. I could not give you the exact hour.

Q. Do you know what time you got to Rio Grande?—A. Some time along in the evening.

Q. Before night?—A. No; not much before night. It was probably after dark a little that I got back there.

Q. Then you must have left Hidalgo pretty late in the evening to go 50 miles?—A. It was some time late in the evening.

Q. How long did you have to wait for the train?—A. I was so much on the road up and down I did not pay any attention to those things.

Q. Do you know what day of the month it was?—A. I was down there, I think, between the 19th and the 23d. I left there on the 23d and came to Alice, Tex.

Q. Can you name any one man you told this conversation to?—A. I don't know whether I could or not, Senator. I told it to a dozen people or more.

Q. Have you talked about it here?—A. No, sir; I did not talk to anyone here about it, only Senator Foraker.

Q. You have not talked to a man by the name of Ferguson?—A. No; I never talked to him.

Senator FORAKER. Ferguson has nothing to do with this case.

A. I have talked to no one.

Senator OVERMAN. He has been talking pretty generally. I did not know but he talked to this man.

Senator FORAKER. He has not talked generally, but he is sensible; that is all.

A. I talked to no one here.

By Senator OVERMAN:

Q. You say you do not know Chase and Bodin?—A. No, sir.

Q. Nobody has told you what sort of looking men they were?—A. No, sir; I never heard of them until I heard here.

By Senator FORAKER:

Q. You knew nothing about being subpoenaed until you got your subpoena?—A. No, sir.

Q. Had no information from anybody that you were going to be subpoenaed?—A. No, sir; I did not.

By Senator OVERMAN:

Q. What is your native State?—A. Virginia is my native State, but I have not been there for thirty-five years.

Q. Have you lived in Texas ever since?—A. I lived in Kansas twenty-eight years—bloody Kansas.

Q. Bleeding Kansas?—A. Bloody Kansas.

Q. How long have you lived in Texas?—A. I have lived in Texas four years.

Q. Where?—A. At San Antonio.

Q. All the time?—A. All the time. When I lived in Kansas they had hot times up there.

Senator FORAKER. That is all. You may be discharged, if the committee have no objection, and I will send word to the Sergeant-at-Arms. We are very much obliged to you, Mr. Printz.

TESTIMONY OF ROBERT L. COLLIER (COLORED).

ROBERT L. COLLIER, colored, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Give us your full name.—A. Robert L. Collier.

Q. Did you belong to the Twenty-fifth Infantry in August of last year, 1906?—A. Yes, sir.

Q. Were you with it at Brownsville, Tex.?—A. Yes, sir.

Q. What company did you belong to?—A. Company C.

Senator FORAKER. I want to put in the official record of this witness, as furnished by the Secretary of War, found at page 259 of Senate Document 155.

The record is as follows:

ROBERT L. COLLIER.

Enlisted February 5, 1901; was discharged as a private of Company C, Twenty-fifth Infantry, February 4, 1904, on expiration of term of enlistment; character good.

Reenlisted February 12, 1904; was discharged without honor as a private of Company C, Twenty-fifth Infantry, November 24, 1906.

By Senator FORAKER:

Q. You were serving your second enlistment when this occurred?—A. Yes, sir.

Q. Now, where were you the night of this firing, August 13, 1906?—A. I was at Fort Brown, Tex.

Q. Were you on duty that night?—A. I was on guard.

Q. How many men were on guard that night, if you can tell us? If you do not recollect, you need not.—A. I think there was 21, sir, with the noncommissioned officers and the privates.

Q. It has been testified that there were 17. It is not important. If you know I want you to state, and if you don't know, why, you need not. How many posts were there?—A. There were four posts, sir.

Q. And how many reliefs were there?—A. Three.

Q. So that there were three times four privates to do the guard duty on post, I suppose?—A. Yes, sir.

Q. That would make 12?—A. Yes, sir.

- Q. Then there would be a musician?—A. Yes, sir.
- Q. Who was that?—A. That was Musician Hoytt Robinson.
- Q. That made 13?—A. Yes, sir.
- Q. Then you had a sergeant of the guard?—A. Yes, sir.
- Q. Fourteen?—A. Yes, sir.
- Q. How many corporals?—A. Three corporals.
- Q. That made 17?—A. Seventeen.
- Q. You were one of the 12 privates?—A. Yes, sir.
- Q. What post did you stand that night when you were on guard?—A. When I was walking post I walked No. 1.
- Q. Where is that located?—A. That is located at the guardhouse.
- Q. Right in front of the guardhouse?—A. Yes, sir.
- Q. Who was the corporal of that guard?—A. Corporal Burdett.
- Q. He was of B Company, I believe?—A. Yes, sir.
- Q. Do you remember when this firing occurred?—A. Yes, sir.
- Q. Where were you when it occurred?—A. When it occurred, sir, I had just come off post about fifteen minutes before the firing commenced.
- Q. Well, you were how occupied when it did commence? Tell us, if you know.—A. It commenced, one single shot fired—
- Q. Where were you when it commenced? I want to know.—A. I was at the rears of the guardhouse.
- Q. You were back at the rears?—A. Yes, sir.
- Q. Were you there when it commenced?—A. Yes, sir.
- Q. What did you do when it commenced?—A. When it commenced, why, I taken double time to get back in front of the guardhouse, where the main guard was, and the sergeant then he had all the guards to fall in—fall in line.
- Q. State whether or not they all did fall in.—A. Yes, sir; they were all present.
- Q. Now, the firing commenced while you were in the rear of the guardhouse?—A. Yes, sir.
- Q. Where did this firing occur, as well as you remember, that you first heard?—A. It seemed down like it was in town.
- Q. Was it inside the fort anywhere, so far as you could tell?—A. No, sir.
- Q. You joined the guard then, did you?—A. Yes, sir.
- Q. And did you remain there until after the firing was all over, with the guard?—A. I remained at the guardhouse, and the sergeant had all the guard take posts where they could see all around, you know.
- Q. Did you have a new post assigned you then, or what?—A. Yes, sir; I had a new post assigned me until it came the time to go back to No. 1 again.
- Q. What place was assigned you?—A. I was assigned inside, where the prisoners were.
- Q. You had some prisoners in confinement in the guardhouse?—A. Yes, sir.
- Q. And you were put in charge of them?—A. No, sir; I was not particularly put in charge of the prisoners; I was where I could see on either side of the guardhouse, on the outside.
- Q. So you could see if anybody was coming or going, or anything else?—A. Yes, sir.

Q. Did you see anybody coming or going?—A. No, sir; I did not see anyone coming or going.

Q. How long did you remain there?—A. I remained there about three hours, I guess.

Senator FORAKER. That is all I want to ask this witness. I wanted him to account for his own whereabouts at the time of the firing.

By Senator WARNER:

Q. You had come off guard duty and what post? You had been on post 1, as you stated?—A. Yes, sir; post No. 1.

Q. And post No. 1 is in front of the guardhouse?—A. Yes, sir.

Q. And when you went off of duty you went back to the sink?—A. Yes, sir.

Q. And the sink is how far in the rear of the guardhouse?—A. The sink is, I guess, about 10 yards there, as near as I can judge.

Q. There was no sentry back of the guardhouse?—A. No, sir. The order was for No. 1 for the sentry to walk in front of the guardhouse in the daytime, and at night to patrol all around the guardhouse.

Q. So you could go out or in the back door without anybody seeing you?—A. Yes, sir; you could go in and out, but No. 1 could see you if he was around on that side.

Q. If he happened to be there?—A. Yes, sir.

Q. But you went out and came in and did not see anybody?—A. No, sir; I did not see anyone.

Q. And you went to the sink?—A. Yes, sir; I went to the sink.

Q. And you heard a single shot fired?—A. Yes, sir.

Q. Now, you know where barracks B and C are?—A. Yes, sir.

Q. And D?—A. Yes, sir.

Q. You know where the telegraph office is, don't you, right at the corner of Elizabeth street and the barracks road?—A. Yes, sir.

Q. Right out from the gate?—A. Yes, sir.

Q. Now, where was that shot with reference to barracks D and the telegraph office?—A. Well, I could not tell, sir, about where it was over that.

Q. You could not tell whether it was inside the wall or outside of the wall, could you?—A. Yes, sir; I could tell whether it was inside or outside.

Q. You could?—A. Yes, sir; from the way it sounded.

Q. Now, let me see. How far were you away from it at the guardhouse—that is, how far were you away from barracks B?—A. I don't know, sir, how far it is.

Q. About how many hundred yards, if it is a hundred yards—I do not say it is?—A. I could not tell how far the guardhouse is away from the barracks—the distance.

Q. It took you how long to walk it?—A. I could walk it in about—

Q. Four or five minutes?—A. Yes, sir; about three minutes, I guess.

Q. It took you that long to walk the distance?—A. Yes, sir.

Q. Now, this shot, how did it sound to you with reference to the telegraph office we were speaking of?—A. It sounded somewhere down about Washington street; somewhere over there.

Q. About Washington street?—A. Yes, sir.

Q. Now, there is an alley between Washington street and Elizabeth street, isn't there?—A. Yes, sir.

Q. And you know where the Cowen house is on that alley, don't you?—A. No, sir; I don't know where his house is.

Q. Did it seem to you as though it was about at Washington street, or between Washington street and Elizabeth street?—A. Well, I don't know, sir, whether it was between. It just seemed over that way.

Q. This one shot you are speaking of now?—A. Yes, sir.

Q. About how far away from the wall did that shot seem to be?—A. I don't know, sir. I did not see any flash of firing.

Q. Well, I know, but judging by the sound could you tell?—A. No, sir; I could not tell.

Q. From the sound you could not tell how far it was from the wall?—A. No, sir.

Q. Well, then, is it not a fact that from the sound you could not tell whether it was inside the wall or outside the wall?—A. Yes, sir; I could tell whether it was on the inside or outside.

Q. How was that? Just explain it in your own way now.—A. Because there was no one out at that time.

Q. What do you mean when you say there was no one out at that time? Just take your own time, now, and explain it.—A. Why, after that shot was fired, I looked to see if I could see the one who fired the shot, and I could not see no one.

Q. And because you could see no one you thought it was on the outside of the wall?—A. Yes, sir.

Q. Is that the only reason? Well, now, that one shot was fired, and I think you say that you double-quickened, or double timed as you call it now, I believe, back to the guardhouse.—A. Back to the guardhouse.

Q. Were there any shots fired from up around the guardhouse?—A. No, sir; I did not see any fired from up there.

Q. Did you hear any?—A. No, sir; I did not hear any.

Q. You heard none in that part of the fort or reservation?—A. No, sir.

Q. Or grounds up there?—A. No, sir; I did not hear any.

Q. You heard this one shot. Then what did you hear?—A. When I heard one shot, then I taken double time to get back to the guardhouse where the main guard was, and after the sergeant says "Fall in, guard," all the guards fell in; and the firing commenced then pretty fast.

Q. Pretty fast?—A. Yes, sir.

Q. But this one shot was distinct by itself, and after that the firing commenced pretty fast?—A. Yes, sir.

Q. And where did that firing seem to be, as near as you can tell?—A. It seemed to be from in town there.

Q. Well, farther out than the first shots seemed to be in town?—A. I don't know, sir, whether it seemed to be farther out or no, because the first shot was fired unexpected to me.

Q. Now, you say the guard were all present?—A. Yes, sir.

Q. How many of them were there?—A. There were 17 guards.

Q. When you fell in there in front, were there 17 fell in?—A. No, sir; there was only 13 fell in.

Q. Thirteen fell in?—A. Yes, sir.

Q. Do you feel confident there were 13 fell in there?—A. Yes, sir.

Q. How did you happen to know that 13 fell in at that time?—

A. I was present at the time they fell in, and the sergeant counted them off—the sergeant of the guard counted them off.

Q. Did he count them out loud, did he say 1, 2, 3, 4 so that you could all hear it?—A. Yes, sir.

Q. And you heard him count 1, 2, 3, 4, and up to 13?—A. Yes, sir; he counted them all, sir.

Q. Did that mean the noncommissioned officers or the privates?—A. The noncommissioned officers and the privates, too.

Q. How many noncommissioned officers were there?—A. There was four noncommissioned officers.

Q. Three corporals?—A. Yes, sir.

Q. And one sergeant?—A. Yes, sir.

Q. Well, what next, then? When you were there this firing commenced. How was that firing, pretty rapid?—A. Yes, sir.

Q. About how many seemed to be engaged in it?—A. Well, I don't know, sir.

Q. Judging the best you can, if you have an idea, Mr. Collier? If you have not, of course I am not pressing you for it.—A. I don't know, sir, about how many. I could not tell about that.

Q. You formed no idea?—A. No, sir.

Q. You heard no bullets?—A. No, sir; I did not hear any.

Q. Heard nobody speak of hearing any bullets?—A. No, sir; I don't believe I did.

Q. What is that?—A. No, sir; I did not hear anyone speak of hearing any bullets.

Q. How many shots did you hear altogether?—A. I don't know, sir, how many shots there were.

Q. Have you any idea?—A. No, sir.

Q. Could not tell anything about it?—A. No, sir.

Q. Did you hear the call to arms?—A. Yes, sir; I heard the call to arms.

Q. When was that sounded?—A. That was sounded while the firing was going on.

Q. How long after you came back from the sink and fell in line there with the guard?—A. Well, the sergeant was having the guards fall out when I got there, and came and picked up my gun and fell right in with the guard.

Senator WARNER. I do not think I want to ask this witness any further questions.

By Senator FOSTER:

Q. I want to ask you some questions. When did you enlist, and how many years have you been in the Army?—A. I enlisted February 5, 1901.

Q. How old are you now?—A. I will be 27 years old the 12th day of August.

Q. Have you been with the Twenty-fifth Infantry all the time?—A. Yes, sir; ever since I enlisted.

Q. When were you detailed on duty that day?—A. I was detailed on duty at 9 o'clock that morning.

Q. When were you assigned to duty that night, the night of the 13th?—A. I went on duty on the 13th at 9 o'clock.

Q. No; when were you put on this special beat or post No. 1? When were you put on guard—at what hour that night? When were you put on guard duty on post No. 1?—A. At guard mount the guard counts for relief, 1, 2, 3, 4, 5, and so on.

Q. You were on guard that night at post No. 1, were you not?—A. Yes, sir.

Q. Were you or were you not?—A. Yes, sir; I was on post No. 1.

Q. Did you have your gun with you when you were on guard?—A. Yes, sir; had my gun.

Q. When were you assigned to duty at post No. 1 that night?—A. I went on No. 1 post at 5 o'clock.

Q. How long did you remain on duty?—A. Remained on until 7.

Q. Then when were you put on duty again?—A. Well, we are supposed to have four hours off, when we come off.

Q. I know that is the rule, but when were you put on again? You went on duty at 5 o'clock and you were relieved at 7?—A. Yes, sir.

Q. Then when were you put on duty again?—A. I can't remember what time the officer of the day came around, but that evening he had a patrol to go out in town to get the men that were on pass and the men who was not on pass, by order of the commanding officer.

Q. Did you go out on that patrol?—A. No, sir; but on account of that I had to go back on post again, and we got the hours mixed up.

Q. About what hour did you go on post again?—A. I went on post again—I don't know, sir; I could not tell what time it was now.

Q. Well, what time did you go to bed that night?—A. I did not go to bed at all when I came off post again. After the patrols all came in I was still on post.

Q. I want to have you tell me when you went on post after your relief at 7 o'clock.—A. When did I go on post again?

Q. Yes; after you were relieved at 7 o'clock.—A. I was supposed to go on at 11 again, but I went on before 11.

Q. That is what I am trying to get you to tell me. How long before 11 did you go on?—A. I don't know, sir, what time it was when I went on again.

Q. When did you come off of post duty that night after 7 o'clock?—A. Well, I came off post again about—something after 12.

Q. Something after 12?—A. Five or ten minutes after 12.

Q. About 5 or 10 after 12. Were you relieved by the corporal at that time?—A. Yes, sir.

Q. How long had you been on post duty when you were relieved at about 12 o'clock?—A. I don't know, sir, how long I had been on there.

Q. Have you not any idea?—A. No, sir; I don't know how long I had been on.

Q. Where is post No. 1 on that map?

Senator OVERMAN. At the guardhouse.

By Senator FOSTER:

Q. That is post No. 1, is it? Was there any other sentry on guard with you that night at post No. 1 after you were assigned to duty the second time?—A. Yes, sir; there was three number ones; three men assigned to No. 1.

Q. Three men assigned to No. 1?—A. Yes, sir.

The CHAIRMAN. Only one stood guard at a time?

A. Only one was on post at a time.

By Senator FOSTER :

Q. That is what I am trying to ask you, if any other sentry was on duty at the same time you were, at post No. 1?—A. No, sir; there wasn't any other one.

Q. You had just come in; and how long after you had come in, about 12 o'clock that night, was it that you heard the first firing?—A. Well, as near as I can judge it was somewhere between 12.15 and 12.20—somewhere along there.

Q. How long after the first shot was it before you heard the other shots? How long an interval was there between the first shots you heard and the other shots?—A. I don't know, sir; but I judge it wasn't quite a minute, or about a minute, or something like that.

Q. Your company—I mean the guard—had already formed into line, had they not? Did the guard form into line immediately after the first shot?—A. I don't know, sir. I wasn't there when the first shot was fired.

Q. You were at the sink when the first shot was fired?—A. Yes, sir.

Q. When did you hear the shots following the first shot? Were you then in ranks, in formation?—A. When they started shooting very fast I was just getting my gun to go on the outside.

Q. Now, what was the occasion of you getting your gun? Had you been ordered to get your gun?—A. When I came back the sergeant said: "Fall out, guard; fall out, guard," and I came back.

Q. Had the bugle sounded then? Had an alarm or the call to arms been sounded then?—A. No, sir; it hadn't been called then. The musician had gone out to sound the call to arms then.

Q. The guards had formed, then, before the musician sounded the alarm?—A. They had not.

Q. When did the guards form—before or after the bugle was sounded?—A. They were forming when the bugle was sounding.

Q. They began to form, then, before the bugle was sounded?—A. Yes, sir.

Q. Where was the bugle sounded? Was it sounded from the guard-house or from the quarters?—A. It was sounded from the guard-house.

Q. Were any other bugles sounded that night? Did you hear any others?—A. I disremember now whether I heard any others or not.

Q. You paid special attention to the number of men who were present there that night, did you—the men who formed at the guard-house?—A. No, sir; I didn't pay very much attention. Only the sergeant counted them, and I just taken notice.

Q. How did he count them? I did not exactly understand you when you answered Senator Warner. I understand you to say he counted from 1 to 13.—A. Yes, sir; he counted them "One," and so on.

Q. From 1 up to 13?—A. Yes, sir.

Q. Is that the way he counted them?—A. Yes, sir.

Q. Is that the usual way of counting the men?—A. No, sir; that isn't the usual way.

Q. That night he counted them differently?—A. Yes, sir.

Q. Instead of counting them the usual way, he then just counted them from 1 to 13. What would be the usual way of counting?—A. The usual way, each man counts his self.

Q. And that night the sergeant counted?—A. Yes, sir.

By Senator WARNER:

Q. Right there, just a question. The usual way is to commence at the right, "1, 2, 3, 4," and each man gives a number?—A. Yes, sir; "1, 2, 3, 4;" "1, 2, 3, 4."

Q. So as to get the files?—A. Yes, sir.

By Senator FOSTER:

Q. That is the usual way of doing it?—A. Yes, sir.

Q. Just explain to the committee how it was done that night.—A. The sergeant, he went along the front and counted "1, 2, 3, 4," and so on.

Q. "One, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13." That is the way he did?—A. Yes, sir.

Q. Did you ever see that done before, or ever hear of it having been done before, counting the men that way?—A. Yes, sir; I have seen it before.

Q. Where did you ever see it before?—A. When we go out on the practice marches the company commander usually counts the men himself that way.

Q. And he counted 13 men that night, the sergeant did, in line?—A. Yes, sir.

Q. Did that include the corporals?—A. Yes, sir; it included the corporals.

Q. Did you hear much firing in town?—A. Yes, sir.

Q. About how many shots would you say you heard that night?—A. I don't know, sir. I could not judge about how many shots there were.

Q. Was there any firing on the inside of the reservation that night?—A. No, sir; not as I could see.

Q. Well, as you could hear?—A. No, sir.

Q. You did not hear a single shot fired that night from the reservation, did you?—A. No, sir.

Q. Could you have located the shots if they had been fired in the reservation?—A. I don't know, sir, whether I could or not. There wasn't anything between the guardhouse and the quarters.

Q. If shots had been fired from the rear of the quarters, could you have told whether they were shot from the inside or outside of the reservation?—A. I don't know, sir, whether you could or not.

Q. Speaking about yourself, could you have told? [After a pause.] If you can not answer it, say so.

The question was repeated by the stenographer, as follows:

Q. If shots had been fired from the rear of the quarters, could you have told whether they were shot from the inside or outside of the reservation? Speaking about yourself, could you have told?

A. I don't understand that yet.

By Senator FOSTER:

Q. You know where the rear of the quarters is, do you not?

Senator WARNER. Of the barracks?

Senator FOSTER. Of the barracks.

The WITNESS. Yes, sir; I know where the rear of the quarters are.

By Senator FOSTER:

Q. Well, now, if any firing had been made from the rear on the porches of the barracks from where you were standing that night, could you have told whether that firing was from the inside of the fort or from the outside of the fort?—A. Yes, sir.

Q. You could have told?—A. Yes, sir; I could have told.

Q. And you heard none fired from the inside of the fort?—A. No, sir; I didn't.

Q. You did not hear a single shot?—A. No, sir; I didn't hear any at all.

Q. Has this matter been discussed pretty freely among the men of your company and battalion—the shooting up of Brownsville?—A. I do not understand that.

Q. Have you had any talk or heard any talk among the men of your company or battalion about the shooting up of Brownsville?—A. Yes, sir.

Q. About who did it and how it was done?—A. Well, I heard them talking about it.

Q. Whom did you hear talking about it?—A. I heard all the soldiers talking about it after it was did, wanting to know who did it and how it was did.

Q. Was that the next day?—A. Yes, sir; that was the next day.

Q. When did you have inspection of the guard?—A. We had inspection of the guard—

Q. (Continuing.) After that shooting on the night of the 13th?—A. We had inspection of the guard the next morning.

Q. Who inspected the guard?—A. Captain Macklin, the officer of the day.

Q. How many men were inspected that morning, on the 14th, of the guard force?—A. I don't know whether he inspected the guard that was on post at that time, because I didn't go around to the posts with him; but he inspected all the guard at the guardhouse.

Q. He inspected your rifle?—A. Yes, sir.

Q. About what time in the day was that?—A. As near as I can judge it was about 6 o'clock, I guess.

Q. In the morning?—A. Yes, sir.

Q. How many men of the guard were in line that morning and were inspected?—A. I don't know, sir, now, just how many were in line.

Q. How many were inspected?—A. I don't know, sir, how many. They all was inspected.

Q. How many did that make?—A. All that was there.

Q. You say all who were there were inspected, but how many were there?—A. I never counted them the next morning; I never counted them.

Q. Did you hear anybody else count them?—A. I didn't hear no one else count them no more than what I heard the sergeant of the guard say.

Q. What did he say?—A. He said they were all there except two men; who were on post at that time.

Q. How many men did that make?—A. That made fifteen.

Q. But you did not hear anyone count them yourself that morning?—A. No, sir.

Q. You heard, however, the sergeant count them that night?—A. Yes, sir; I heard him count them that night.

Q. Did you ever hear that any of the soldiers of that battalion did that shooting up of the town?—A. I don't understand that, sir.

Q. Did you ever hear that any of the soldiers of that battalion did the shooting that night—the shooting up of the town?—A. No more than what I heard the people of the town say.

Q. What did you hear the people of the town say?—A. The only thing I heard them say was that the soldiers shot the town up.

Q. Who did you hear say that?—A. I don't know, sir. I don't know who it was.

Q. Can you recall some men who made this statement?—A. No, sir; because I wasn't acquainted with no one down there, and I didn't know no one's name.

Q. Did you hear any of the soldiers in their talk among themselves say who did the shooting?—A. No, sir; I never heard anyone say who did it.

Q. Did you ever hear any soldiers say that they suspected any other soldiers of doing the shooting?—A. No, sir.

Q. The matter, then, was pretty freely discussed among the soldiers as to the shooting up of the town?—A. Well, I don't know, sir, because I never did visit town none.

Q. Did you hear any talk among the soldiers?—A. No, sir; I didn't hear any talk among the soldiers.

Q. Did you hear the soldiers say who did the shooting?—A. No, sir.

Q. You were sent around, you say, to watch the prisoners at the guardhouse?—A. No, sir; I wasn't sent around particularly to watch the prisoners. I was sent around to watch to see if anyone came in.

Q. Who sent you there?—A. The sergeant of the guard.

Q. When was that? About what hour of the night?—A. Somewhere near 1 o'clock; somewhere along there.

Q. How long did you stay there?—A. I don't know, sir, how long I stayed there.

Q. Were there any prisoners in the guardhouse at that time?—A. Yes, sir.

Senator FOSTER. That is all I want to ask you.

By Senator BULKELEY:

Q. Have you given testimony before about this matter?—A. Yes, sir.

Q. Did you make a statement, and to whom?—A. I made a statement to General Garlington, I believe. I think it was him.

Q. Did you make one to Colonel Lovering?—A. It was either one of the two. I don't remember now which one it was.

Senator BULKELEY. On page 500 of Senate Document No. 155 is the testimony of Private Robert L. Collier before Lieutenant-Colonel Lovering, and the same testimony is also found on page 152.

Senator WARNER. That is a duplicate of what is found on page 500. Those two are identically the same.

Senator BULKELEY. Yes; it is put into the book twice.

By Senator BULKELEY:

Q. If you made a statement to Colonel Lovering it was a true statement, was it?—A. Yes, sir.

Q. It was correct, was it?—A. It was correct as far as I know.

Senator BULKELEY. I would like to have this testimony, as found at page 500 of Senate Document No. 155, put into our record in full.

The record referred to is as follows:

Private Robert L. Collier, Company C, Twenty-fifth Infantry.

Q. Where were you on August 13, 1906, when the shooting commenced at Brownsville?—A. I was on guard that night, sir. Was at the closet at the guardhouse. Closet was at the rear of the guardhouse on outside.

Q. Did you have to go out of the front door of the guardhouse to get to the rear?—A. No, sir; didn't have to go out the front door.

Q. Is the closet, then, a part of the guardhouse?—A. No, sir.

Q. Is it connected with the guardhouse?—A. No, sir; it is on the outside.

Q. How did you get out of the guardhouse to go to the rear?—A. Went out the back door of the guardhouse.

Q. Did you see No. 1 when you went to the rear?—A. No, sir; can't see No. 1 from the rear.

Q. People can go in and out of the guardhouse without No. 1 knowing it, can they?—A. Yes, sir; they can go in and come out without No. 1 knowing it.

Q. You were in rear when firing commenced, were you?—A. Yes, sir; I just came off post.

Q. Did you call for relief to go off post?—A. No, sir; it had come my time to be relieved off post.

Q. Did you return immediately to the guardhouse when you heard firing?—A. Yes, sir; taken up double time.

Q. Who did you see in the guardhouse when you entered?—A. The ones I saw when I got there were the men that were on guard.

Q. What sergeant? Did you see a sergeant?—A. Yes, sir; Sergeant Reid.

Q. Did you see any corporals?—A. Yes, sir; corporals were there.

Q. Who were they?—A. I don't remember the corporals' names.

Q. Have you ever been abused in Brownsville?—A. No, sir.

Q. Ever been in a saloon in Brownsville?—A. No, sir.

Q. Have you ever heard of any men of the Twenty-fifth Infantry being abused in Brownsville?—A. One got knocked down; one got pushed overboard in the river.

Q. Any more?—A. Not any more.

Senator OVERMAN. Did you know Sergeant Howard?

A. Yes, sir; I know him when I see him. He was a kind of dark—

Q. About your size?—A. Yes, sir; he is about my size, but he is taller than I is.

Q. And heavier?—A. Yes, sir.

(Witness excused.)

TESTIMONY OF ROBERT TURNER (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Give us your full name.—A. Robert Turner.

Q. You belonged to the Twenty-fifth Infantry in August last, did you?—A. Yes, sir.

Q. What company?—A. C Company.

Senator FORAKER. Now, I want to put in evidence here the official record of this witness as found at page 264 of Senate Document 155. (The record referred to is as follows:)

ROBERT TURNER.

Enlisted October 17, 1898; was honorably discharged as a private of Company I, Twenty-fifth Infantry, March 4, 1899, upon his own application, he having enlisted for the war with Spain; character good.

Reenlisted March 8, 1899; was discharged as a private of Company C, Twenty-fifth Infantry, March 7, 1902, on expiration of term of enlistment; character good.

Reenlisted March 11, 1902; was discharged as a private of Company C, Twenty-fifth Infantry, March 10, 1905, on expiration of term of enlistment; character very good.

Reenlisted March 11, 1905; was discharged without honor as a private of Company C, Twenty-fifth Infantry, November 23, 1906.

By Senator FORAKER:

Q. I see, according to this, you enlisted in 1898 and served until you were discharged without honor November 23, 1906. That is right, is it?—A. Yes, sir.

Q. How many years in all did you serve?—A. I don't know, exactly. It wasn't quite nine years, though.

Q. Something like nine years?—A. Yes, sir.

Q. Were you with your company at Fort Brown on the night of August 13 when this shooting affray occurred?—A. No, sir; I was across the garrison.

Q. You were where?—A. I was across the garrison.

Q. Across the garrison?—A. Yes, sir.

Q. Where were you sleeping?—A. Sleeping in the quarters of Lieutenant Hay.

Q. What were you doing there?—A. I was working for Lieutenant Hay.

Q. Then you were detailed to wait on him?—A. Yes, sir.

Q. And keep his quarters?—A. Yes, sir.

Senator FORAKER. Indicate where his quarters were. There is the map. I would like to locate them if I can.

(Senator Overman explained the map to the witness.)

By Senator FORAKER:

Q. Now tell us where Lieutenant Hay's quarters were, if you can. (The witness indicated on the map the location of Lieutenant Hay's quarters.)

Q. The third one from the river?—A. Yes, sir.

Senator WARNER. It is 17.

By Senator FORAKER:

Q. Now, who else occupied quarters there?—A. Lieutenant Lawson.

Q. He was commander of Company B?—A. Yes, sir.

Q. Where was Lieutenant Hay at that time?—A. He was away on the competition at Fort Sill.

Q. Yes; and notwithstanding he was away you were there at those quarters that night?—A. Yes, sir.

Q. Was that your place to sleep?—A. Yes, sir; I had orders to stay over there to take care of the house.

Q. Where was your gun that night?—A. Over to my company, in the rack.

Q. Did you hear the firing that night?—A. Yes, sir; I did.

Q. Were you asleep or awake when it commenced?—A. I was asleep.

Q. In these quarters of Lieutenant Hay. What did you do?—A. I jumped up, sir, half dressed, and called Lieutenant Lawrason.

Q. You awakened Lieutenant Lawrason?—A. Yes, sir.

Q. Was he asleep at that time?—A. Yes, sir; he was asleep upstairs.

Q. Then what did he do?—A. He got up as quick as possible.

Q. You had nothing to do with the shooting in the town, did you?—A. No, sir.

Senator FORAKER. That is all I want to ask the witness. I called him simply to show his whereabouts.

(No other member of the committee desiring to interrogate the witness, he was excused.)

TESTIMONY OF OSCAR W. REID (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. What company of the Twenty-fifth Infantry did you belong to?—A. Company C.

Q. Are you the Oscar W. Reid who got shoved off of a gang plank into the Rio Grande River when you were coming over from Matamoros?—A. Yes, sir.

Q. What time did that occur?—A. Sunday night.

Q. What time Sunday night?—A. About 10 o'clock.

Q. About 10 o'clock Sunday night?—A. Yes, sir.

Q. Where were you the night of the firing?—A. I was asleep in my quarters, in Company C barracks.

Q. Where did you sleep Sunday night after you were shoved off of the gang plank?—A. I slept in the barracks, Company C barracks.

Q. You were on your way back?—A. Yes, sir.

Q. Where had you been?—A. In Matamoros.

Q. Out on pass?—A. Yes, sir.

Q. Who was with you?—A. Private Gill of Company D.

Q. Of Company D?—A. Yes, sir.

Q. Private Gill and you were returning?—A. Yes, sir.

Q. You came up to the quarters and slept there that night?—A. Yes, sir.

Q. Was your company out on a practice march the next morning, do you remember, the day of the firing?—A. No, sir; I don't think they were.

Q. You do not remember?—A. No, sir.

Q. How did you put in the day, if you remember?—A. I was on guard fatigue.

Q. On what?—A. On guard fatigue.

Q. What kind of duty is that?—A. That is fatigue after you come off guard; the next following day you do fatigue.

Q. But I am speaking of Monday now. This firing was Monday night?—A. The firing; yes, sir.

Q. I want to know what you did that day before the firing; the day after you had been shoved off of the gang plank. What did you do that day?—A. I was cleaning up around quarters.

Q. You had been on guard and went on police duty? You were policing, cleaning up around the barracks?—A. Yes, sir.

Q. Were you kept at that all day?—A. Yes, sir.

Q. Did you have any opportunity to converse with the men about affairs particularly?—A. No, sir; no more than the men on fatigue with me.

Q. Where were you when the firing commenced?—A. In the barracks asleep.

Q. What did you do?—A. I woke up, and they said some citizens were firing on the quarters, on the barracks, and I got up and put on my clothes, and they said, "Get your gun," and by the time they said, "Get your gun," I heard the call to arms go.

Q. Did you fall in with your gun?—A. Yes, sir.

Q. That is all I want to ask about that. Did you have any trouble while you were at Brownsville other than that I have just called attention to?—A. No, sir.

Q. And this was a customs officer who pushed you off of the plank, was it?—A. Yes, sir.

Q. Did you have anything to do with the shooting up of the town in any way?—A. No, sir.

Q. Did you make any complaint against the citizens of the town at any time to anybody?—A. No, sir; no more than the fellow that pushed me overboard, off of the wharf.

Q. You reported that to your captain?—A. Yes, sir.

Q. Who was that?—A. Captain Macklin.

Q. You made a report to him?—A. Yes, sir.

Q. And what did he say he would do about it?—A. He told me that he would see about it.

Q. And with that you were satisfied, or not?—A. Yes, sir; I was satisfied.

Q. You did not go about to organize a conspiracy to shoot up the town in revenge, did you?

Senator FORAKER. That is all.

By Senator WARNER:

Q. You went to Matamoros at what time?—A. It was in the evening, 2 or 3 o'clock, I guess.

Q. And you remained there until 10 o'clock?—A. Yes, sir.

Q. What did you do over there?—A. I went looking around the town, sight-seeing.

Q. You visited some saloons?—A. Yes, sir; one saloon.

Q. You were drinking some?—A. Yes, sir; I had several drinks.

Q. You had been paid off the day before?—A. Yes, sir.

Q. Who went with you?—A. Private Gill.

Q. It was 10 o'clock when you came back?—A. Yes, sir.

Q. Were there many soldiers over there?—A. I saw several over there.

Q. A good many soldiers go over to visit Matamoros?—A. Yes, sir.

Q. It was a common, everyday occurrence?—A. Yes, sir; on a pass.

Q. I did not say how they went. It was a common, everyday occurrence?—A. Yes, sir.

Q. You could go without a pass?—A. Yes, sir.

Q. So long as you reported for drill duty at the ordinary set periods?—A. Yes, sir.

Q. You slept in your barracks?—A. Yes, sir.

Q. Now, when you woke up was there much shooting going on?—A. Yes, sir; I heard several shots fired.

Q. Was it rapid shooting or volleys?—A. No, sir; it was not volley shooting, but quite rapid firing.

Q. That is, what you call firing at will?—A. Yes, sir.

Q. Volley shooting is where all the shots seem to be at one discharge?—A. Yes, sir.

Q. And this was continued rapid firing?—A. Yes, sir.

Q. Where did that shooting seem to be?—A. It seemed to be coming from the town.

Q. I know; but what part of the town?—A. It seemed to be coming from the gate—from the barracks of C and B, it seemed to me like—outside of the gate.

Q. As you go out, do you mean; on the right-hand side of the gate as you go out in the town?—A. Yes, sir.

Q. And on the left-hand side as you come in?—A. Yes, sir.

Q. The telegraph office is right over at the corner of Barracks road and Elizabeth street?—A. Yes, sir; I don't know what street it is.

Q. It seemed to be in that direction?—A. Yes, sir.

Q. And there was quite rapid firing?—A. Yes, sir.

Q. And you jumped up, did you?—A. Yes, sir.

Q. And dressed yourself?—A. Yes, sir.

Q. What did you hear said then?—A. They said, "Get up and get your guns. Get your gun; get your gun; the people are shooting in the quarters here. The citizens are shooting into the quarters."

Q. They said: "The citizens are shooting into the quarters" and "Get up and get your gun?"—A. Yes, sir; and then call to arms went, and we tried to get the guns and couldn't get the gun racks open.

Q. Who was the officer in charge of quarters that night?—A. Sergeant Brawner.

Q. Where was he?—A. He was there. I don't know where he was at the time. I think he was down in the orderly room with the first sergeant.

Q. What makes you think he was down in the orderly room with the first sergeant?—A. When I saw him he was coming up from downstairs.

Q. What made you think that he was in the orderly room with the first sergeant?—A. When I saw him he was coming up from that way. That is the reason that I suspicioned he was down there.

Q. You don't know where he was downstairs?—A. No, sir.

Q. Was he fully dressed?—A. Yes, sir; I think he was. I don't remember whether he was fully dressed or not.

Q. He had his uniform on?—A. Yes, sir.

Q. And was coming upstairs?—A. Yes, sir.

Q. How was he coming up—leisurely or in a hurry?—A. In a hurry, he was. It seemed to me he was in a hurry.

Q. Who was coming up with him?—A. I don't remember who was coming up with him.

Q. Nobody?—A. There was three or four there. I don't know who they were. All of them crowded around the steps.

Q. I know; but coming up around the steps and coming up on the steps are two different things.—A. Yes, sir. I don't remember who was coming up the steps with him.

Q. Were there two or three coming up with him?—A. I don't know whether there were two or three coming up with him or not. I saw some two or three there.

Q. Did Sergeant Brawner say anything to you?—A. He said something about the gun racks, not to break open the gun racks, not to bust them open.

Q. What did he say?—A. He said not to open the gun racks; he said not to break them open. He said not to open the gun racks until the major said to open them. The fellows were hollering "Open the gun racks, open the gun racks," the soldiers were, and he said "Wait, wait, wait;" and he was unlocking them and the major was hollering out there to break them open. "If you can't get them open any other way, break them open."

By Senator FOSTER:

Q. Who was that?—A. Major Penrose.

By Senator WARNER:

Q. Let us get the connection of that. Do I understand you to say that Brawner said to wait and he would open the gun racks?—A. Yes, sir.

Q. And then Major Penrose, at this same time, said "Break open the gun racks?"—A. No, sir; I don't know whether Brawner was telling the boys to wait until he could open the gun racks, then. I don't know whether he was, but the major was keeping on hollering "Fall in, fall in, fall out," and some of them were falling out without any guns, and he told them to get their guns, and they said that they couldn't get their guns because the gun racks were not open, and then he told them to break the gun racks open if they could not get them otherwise.

Q. Where was Sergeant Brawner then?—A. He was upstairs somewhere in the quarters.

Q. That was after you had seen Sergeant Brawner on the stairway and he was coming upstairs?—A. Yes, sir.

Q. And after he was upstairs you heard Major Penrose give this order to break open the gun racks if they could not get them open any other way?—A. Yes, sir.

Q. Did Sergeant Brawner go to work and break open the gun racks?—A. He opened one or two—unlocked them—and one was broken open.

Q. Where were you all this time?—A. I was upstairs around the gun racks trying to get my gun. I started down without my gun, and he told me to go back and get my gun.

By Senator FRAZIER:

Q. Who told you?—A. The major told me to go back and get my gun.

By Senator WARNER:

Q. You were told at that time?—A. Yes, sir.

Q. You had heard somebody say that the citizens were shooting into the fort?—A. Yes, sir.

Q. You had been a soldier how long?—A. About two years and four months.

Q. And yet you went downstairs without gun or ammunition?—A. He kept on hollering to the men to fall out, and I couldn't get my gun, and I was going to fall out anyway.

Q. Did you suppose you would be any use without gun or ammunition?—A. No, sir.

Q. You understood, as a soldier, that when he said to fall out at that time of night it meant to fall out with your gun and ammunition?—A. Yes, sir.

Q. And yet you went down without either?—A. I started down without my gun.

Q. Had you fully dressed?—A. No, sir; I was not fully dressed.

Q. What clothing did you have on?—A. I had on my blouse and no shirt.

Q. You had on your blouse?—A. Yes, sir.

Q. And trousers?—A. Yes, sir.

Q. And shoes?—A. Yes, sir.

Q. And hat?—A. Yes, sir.

Q. That was about all there was except the leggings?—A. No, sir; I didn't have my shirt.

Q. That is, your overshirt?—A. Yes, sir.

Q. Where was your ammunition?—A. We didn't have anything but blank ammunition—what we call guard ammunition.

Q. Where was that?—A. That was in my belt.

Q. Did you get that?—A. No, sir.

Q. That was hanging up at your bed, was it?—A. Yes, sir.

Q. You didn't take that at all?—A. No, sir.

Q. You just left that there and went down stairs?—A. Yes, sir.

Q. Which gun rack was your gun in?—A. In the gun rack opposite the stair steps. I don't know which one it was.

Q. You knew which gun rack your gun was in?—A. Yes, sir.

Q. Did you go to that gun rack?—A. Yes, sir.

Q. Where was Sergeant Brawner then?—A. He was somewhere upstairs there, but I can't tell what place.

Q. He was somewhere upstairs when you went to the gun rack for your gun?—A. Yes, sir.

Q. These gun racks were pretty close together?—A. Yes, sir; two of them were.

Q. Two on one side and two on the other?—A. Yes, sir.

Q. Did you see Sergeant Brawner?—A. I saw him after the fellows got their guns, and when they commenced to break the gun racks open I saw him then.

Q. When you got your gun you say that he was upstairs somewhere, but did you see Sergeant Brawner then?—A. Yes. He wasn't upstairs then. He was downstairs when I got out.

Q. I know, but after you got to the gun rack I understood you to say that Sergeant Brawner was somewhere upstairs at that time?—A. Yes, sir.

Q. Did you see him, I asked you?—A. No, sir.

Q. Did you speak to him?—A. No, sir; I did not speak to him.

Q. Did you hear him say anything?—A. I heard him say during that time to fellows breaking the gun racks, "Wait a minute; wait a minute."

Q. How many did he unlock?—A. I don't know. I know that there was one unlocked, but I don't know how many.

Q. Which one did you get your gun out of, the one that was unlocked or one that was broken open?—A. I got one out of a rack that was broken open.

Q. This shooting, when you woke up, was pretty lively shooting, you say?—A. Yes, sir.

Q. It seemed to be over in the direction of what place?—A. Of the town, it sounded like. It seemed to be coming from the town.

Q. To the right of the gate as you go out?—A. Yes, sir.

Q. You know where the telegraph office was there?—A. Yes, sir.

Q. At the corner of Barracks road and Elizabeth street?—A. Yes, sir.

Q. Would it seem to be over in that direction?—A. I don't know. It seemed to be coming from that side, from the town, but I don't now what direction. From the sounds—the reports of the guns—it seemed to be coming from the town.

Q. You belonged to Company C?—A. To Company C.

Q. And that is to the left of the gate as you go out?—A. To the right of the gate going out.

Q. I mean to the right of the gate going out.—A. Yes, sir.

Q. That is the last barracks that was occupied, up next to the vacant barracks?—A. Yes, sir.

Q. Was this shooting apparently out in the town at the rear of Barracks C or at the rear of Barracks B or at the rear of Barracks D, which?—A. It appeared to be out in the town, back of Barracks C and B.

Q. Back of Barracks C and B?—A. Yes, sir.

Q. You knew where that alley was between Washington and Elizabeth streets, there?—A. Alley?

(The map was here further explained to the witness by Senator Overman.)

By Senator OVERMAN:

Q. There is the telegraph office. Do you know where the Cowen house is?—A. No, sir; I don't remember it by the name.

Q. You know where the telegraph office is?—A. Yes, sir.

Q. There is the gate and there is the alley between those two streets—Washington and Elizabeth streets [indicating on map].

By Senator WARNER:

Q. You have had that alley pointed out to you on the map, between Washington and Elizabeth streets?—A. I don't remember that alley. I remember the streets—the two streets—but I don't remember the alley.

Q. How close to the barracks did that seem to be—that shooting?—A. From the reports, it seemed that it wasn't far off.

Q. Not far away?—A. No, sir.

Q. And it seemed like how many shooting?—A. Why, it didn't seem like to me there was very many.

Q. Ten, twelve, or fifteen?—A. Oh, it might have been four or five from the way the shooting sounded. I couldn't tell, you see. It might have been four or five that did the shooting the way they were shooting. I couldn't guess how many there was. It might have been four or five. The guns might have been making the same report.

Q. What do you mean by four or five making the same report?—A. They were shooting slow firing.

Q. Slow firing?—A. Yes, sir; I mean at will; firing shots one after another.

Q. You mean firing at will?—A. Yes, sir.

Q. Now, was that firing at will rapid or slow?—A. Well, it looked like it was pretty rapid; pretty rapid. It wasn't volley firing, but it seemed to be firing at will, and pretty rapid.

Q. Did you hear any commands given?—A. No, sir.

Q. Did you hear any words spoken?—A. No, sir; no more than the speaking in the quarters.

Q. But you did not hear a word at that time?—A. No, sir.

Q. You did not hear a word outside?—A. No, sir.

Q. You did not hear any shouting outside?—A. No, sir.

Q. Did you go to the window and look out?—A. No, sir.

Q. Or to the door?—A. No, sir.

Q. The next day—that is, on the 13th—you were on fatigue duty, your company—or you were?—A. The 13th? That was before this trouble that I was on fatigue.

Q. That was the night of the 13th. I am speaking of the day of the 13th.—A. I was on guard the next day, on cossack post—on the sixth cossack post.

Q. That was the 14th?—A. Yes, sir.

Q. On the 13th you were on fatigue duty; that is right?—A. Yes, sir.

Q. Your company did not go on a practice march that day?—A. I don't remember whether I went on practice march or not.

Q. Do you know anything about the men being sent out on patrol that day or night before the 13th to bring the men in that were out?—A. Yes, sir; I heard about that.

Q. Did you see the parties starting out?—A. No, sir; I didn't see the parties starting out.

Q. They were sent out without any guns, were they not?—A. I don't remember whether they were sent out without guns or not.

Q. But you know that patrols were sent out to bring the soldiers in?—A. Yes, sir.

Q. By reason of some disturbance that had occurred, or something?—A. Yes, sir.

Q. I will not go into that further. Was your gun damaged at all?—A. I think there was a little piece of wood off it; yes, sir. I don't know whether it was my gun. You see, I never seen my gun.

Q. The gun that you got?—A. Yes, sir; there was a piece of wood off it, I think. The barrel had been damaged—the stock.

Q. When the company formed downstairs, did the firing continue then?—A. No, sir; at first there was firing, but before they got through the firing had ceased.

Q. What do you mean by "before they got through?"—A. Before they got through calling the roll and got around behind the wall there the firing had ceased.

Q. Had it ceased before they got through calling the roll, after you had fallen in in front?—A. I don't remember whether it stopped or not. There was firing when they were falling out. I don't remember whether it stopped before they got through calling the roll or not.

Q. How many were present?—A. I couldn't tell you how many were present. I don't know, sir.

Q. You do not know anything about that?—A. No, sir.

Q. There was a good deal of excitement and confusion there before they fell in, was there not?—A. Yes, sir; they all fell in there. Lieutenant Grier was there.

Q. I know; but I asked you, there was a good deal of excitement and confusion?—A. Yes, sir.

Q. And they fell in kind of straggling like, by reason of these guns being locked up there?—A. No, sir; they were all rushing after they got their guns; everybody was in a rush, it looked like to me.

Q. In a rush and confusion?—A. Yes, sir.

Q. And you do not know how many fell in there and how many were out?—A. No, sir.

Q. To your knowledge. The sergeant knows about that.—A. Yes, sir.

Q. Where were you sleeping that night, do you say?—A. In Company C barracks.

Q. In the barracks?—A. Yes, sir.

Senator WARNER. That is really all I care about.

By Senate FOSTER:

Q. I want to ask one question. Are you certain that Major Penrose gave the order to break open the racks?—A. Yes, sir.

Q. Lieutenant Grier was present also, was he not?—A. He was present when I fell out. I don't know whether he was out there at the time Major Penrose hollered to break open the racks or not.

Q. Did you hear Lieutenant Grier give any order to break open the racks?—A. No, sir.

Q. If he had given such an order, you would have heard it, would you not?—A. I don't know. They were keeping so much noise I don't know whether I could have heard it or not.

Q. But Major Penrose you heard?—A. I heard him.

Q. He was the officer who gave that order?—A. Yes, sir.

Q. He gave it out in a clear, loud tone?—A. Yes, sir.

Q. Was it a command to break open the racks?—A. The way it was the soldiers were falling out without their guns—some was falling out without guns—and he told them to go back and get their guns, and he kept hollering, "Fall out, fall out," and the men said, "We can't get our guns; the racks ain't open," and he said, "Break the racks open."

By Senator OVERMAN:

Q. Do you not know the number of your gun?—A. No, sir; I couldn't say. I think I know it.

Q. How could you tell your gun when you got it?—A. I knew the number when I was there.

Q. But now you have forgotten?—A. Yes, sir.

Q. You knew the number at the time?—A. Yes, sir.

By Senator FRAZIER:

Q. Who was it you heard say that the citizens were firing on the barracks?—A. The men up in the quarters. I couldn't tell who they were; it was dark.

Q. Were you one of them that said it?—A. No, sir.

Q. How many said it?—A. Four or five. They said, "Get up, get up; the citizens are shooting into the barracks."

Q. "The citizens are shooting into the barracks?"—A. Yes, sir.

Q. That was just what they said?—A. Yes, sir.

Q. That was one of the first things you heard?—A. Yes, sir.

Q. Did you hear that while you were dressing?—A. Yes, sir.

Q. Before you got to your gun rack you heard them say that the citizens were shooting into the barracks?—A. Yes, sir.

Q. You heard several of them say that?—A. Yes, sir.

Q. Did they continue to holler that while you were dressing and getting out?—A. Yes, sir.

By the CHAIRMAN:

Q. Are you sure they said "citizens," or did they use some term that you thought meant that?—A. No, sir.

Q. You are sure you heard them say "citizens?"—A. Yes, sir; some of them. I heard "citizens" spoken.

By Senator FRAZIER:

Q. You could not tell which ones were saying this?—A. No, sir; it was dark. There was no light, and I couldn't tell which ones it was.

Q. But you are certain that a number of them said that citizens were firing on the barracks?—A. Yes, sir; I heard that word spoken.

Q. That was before you got to the rack and got your gun, while you were dressing?—A. Yes, sir.

Q. Then where did you go after you got dressed and went to the gun rack and found it locked? Did you go downstairs?—A. No, sir; I started downstairs after I stood there a while and couldn't get my gun, and the major kept hollering to fall out.

Q. You had already heard the call to arms?—A. Yes, sir.

Q. How far downstairs did you get?—A. Two or three steps.

Q. What did you go back for?—A. He said to go back and break the gun racks open.

Q. Who said that?—A. Major Penrose.

Q. He told you to go back and break the gun racks open?—A. No, sir; he didn't tell me that. He got the report that they couldn't get the gun racks open, and he said to go back and get the guns, and he said to break the gun racks open if we couldn't get them any other way.

Q. Where was he when he said that?—A. Right out in front of the porch.

Q. Could you see him?—A. Yes, sir.

Q. From where you were at the top of the stairs?—A. Yes, sir.

Q. And he was out on the parade ground, was he?—A. I can't remember whether he was on the parade ground or not, but he was out in front of the quarters.

Q. He was not up in the quarters?—A. No, sir.

Q. And not on the porch?—A. No, sir; I don't think he was.

Q. And you had only gone downstairs two or three steps?—A. Yes, sir.

Q. And you could see him distinctly out there?—A. Yes, sir.

Q. And he was telling you to break the racks open and get your guns?—A. Yes, sir. He wasn't telling me particularly. He was saying to break the racks open.

Q. Yes; and you turned around and went back?—A. Yes, sir.

Q. Did you go to the rack that contained your gun?—A. No, sir.

Q. Where did you go?—A. I went to the rack where I could get a gun out quickest.

Q. You knew where your gun was?—A. Yes, sir.

Q. Why did you not go to the rack that had your gun in it?—A. "Get any gun," some fellow was hollering.

Q. Who said to "get any gun?"—A. Some noncommissioned officer. He said, "No matter about your gun; get any gun you can and fall out."

Q. He said no matter about getting your own gun?—A. Yes, sir. He said, "Get any gun and fall out."

Q. Where did the rack containing your gun sit with reference to the stairs?—A. As you came to the stairs there was a gun rack set on each side.

Q. Was your gun in one of those racks?—A. Yes, sir.

Q. Then the rack containing your gun was the closest one to you?—A. Yes, sir.

Q. Why did you not go to that one?—A. They hadn't opened that one.

Q. Were they opening any one?—A. Sure; yes, sir.

Q. Who was opening it?—A. Some of the soldiers.

Q. Were they unlocking it or breaking it open? Were they breaking the racks open when you turned around and went upstairs?—A. Yes, sir; when he hollered they began breaking them open.

Q. Immediately they began breaking them open?—A. Yes, sir.

Q. How did they begin breaking them open at that time? Did they have anything to break them open with?—A. I don't know, sir. I don't know what they were breaking them open with. They were breaking them open.

Q. You say that immediately after Major Penrose hollered "Break the racks open" they began breaking them open?—A. Yes, sir; pretty soon after he said that.

Q. You said a moment ago "immediately," did you not?—A. I think I did. I don't know; I don't know what time it was, but after he said to break them open. I don't know whether they went right in to break them open.

Q. You turned around immediately after hearing Major Penrose give that order and went back to where they were breaking them open?—A. They were breaking the gun racks open.

Q. They were breaking the gun racks open when you got upstairs?—A. Yes, sir.

Q. And you went to the rack that they were beating on?—A. Yes, sir.

Q. How many were beating on that rack when you got to it?—A. I don't know. There were some 15 or 20 around it, trying to get their guns.

Q. Did you see the axe?—A. I don't know what they had breaking it open with.

Q. You did not see the instrument used to break it open?—A. No, sir. There was a crowd around, and I was waiting to get my gun.

Q. But when you got to the top of the stairs and went down two or three steps you heard Major Penrose give that order?—A. Yes, sir.

Q. And then you turned back, and at that time they were breaking the racks?—A. When I got back up there.

Q. When you got back they were breaking the racks?—A. Yes, sir.

Q. And hammering at the racks in the dark?—A. Yes, sir.

Q. At that time?—A. Yes, sir.

Q. Where were you born?—A. In Portsmouth, Va.—Norfolk.

Q. Where did you enlist?—A. I enlisted in Chicago.

Q. In Chicago?—A. Yes, sir.

Q. How long had you lived in Chicago before you enlisted?—A. About two months.

Q. About two months?—A. Yes, sir.

Q. What were you doing there?—A. I was working in a saloon there?

Q. Working in a saloon?—A. Yes, sir.

Q. Barkeeper in a saloon?—A. No, sir; porter.

Q. In a Chicago saloon?—A. Yes, sir.

Senator FRAZIER. That is all.

(Witness is excused.)

Senator FORAKER. I want inserted at this point the charge and specifications preferred against this witness at Fort Sam Houston, Tex.

The document referred to is as follows:

Charge and specification preferred against Private Oscar W. Reid, Company C, Twenty-fifth Infantry.

Charge.—Conduct to the prejudice of good order and military discipline in violation of the sixty-second article of war.

Specification.—In that Private Oscar W. Reid, Company C, Twenty-fifth Infantry, did without authority take from the barracks of his or other company stationed at Fort Brown, Tex., one magazine rifle, caliber .30, model 1903, and did, singly or in company with other party or parties unknown, take part in a disturbance in the streets of Brownsville, Tex., in which disturbance one citizen of said town was killed and another wounded, by loading with ball cartridges and firing said rifle in said streets of said town and causing damage to property of inhabitants of said town. This on or about August 13, 1906.

H. CLAY M. SUPPLEE.

*First Lieutenant, Battalion Adjutant,
Twenty-sixth Infantry, Officer Preferring Charge.*

Witnesses: Sergt. James R. Reid, Company B; Sergt. George Jackson, Company B; Private John Hollomon, Company B; Sergt. Darby W. O. Brawner, Company C; Corpl. Charles H. Madison, Company C; Corpl. Willie H. Miller,

Company C; Private Charles W. Askew, Company C; Private James W. Newton, Company C; Corpl. David Powell, Company D; Private James C. Gill, Company D; Private Joseph H. Howard, Company D.

In confinement since August 25, 1906.

Rate of pay, \$14 per month.

Previous convictions. four.

[First Indorsement.]

FORT SAM HOUSTON, TEX, *August 28, 1906.*

Respectfully forwarded to the military secretary, Department of Texas, recommending trial by general court-martial. Under paragraph 962, Army Regulations, these charges have been investigated by the undersigned as far as practicable with the means at hand, and I am of the opinion that it is doubtful if the allegations as set forth can be substantiated.

C. J. T. CLARKE,

Major, Twenty-sixth Infantry, Commanding.

TESTIMONY OF EDWARD JOHNSON (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Give us your name in full.—A. Edward Johnson.

Q. Did you belong to the Twenty-fifth Infantry in August, 1906, last year?—A. I did, sir.

Q. What company?—A. Company C.

Q. Were you with your company at Fort Brown in August, 1906?—

A. I was, sir.

Q. Your name is Edward Johnson?—A. Yes, sir.

Senator FORAKER. I will put in evidence here the official record of this witness, as given by the War Department, as found at page 261 of Senate Document 155.

The record referred to is as follows:

EDWARD JOHNSON.

Enlisted April 2, 1896; was discharged as a private of Company C, Twenty-fifth Infantry, April 1, 1899, on expiration of term of enlistment; character excellent.

Reenlisted April 2, 1899; was discharged as a corporal of Company C, Twenty-fifth Infantry, April 1, 1902, on expiration of term of enlistment; character very good.

Reenlisted April 2, 1902; was discharged as a private of Company C, Twenty-fifth Infantry, April 1, 1905, on expiration of term of enlistment; character good.

Reenlisted June 21, 1905; was discharged without honor as a private of Company C, Twenty-fifth Infantry, November 23, 1906.

By Senator FORAKER:

Q. How long were you in the Army?—A. Ten years, sir.

Q. Now, where were you on the night of the 13th of August when the firing in Brownsville occurred?—A. I was out in Brownsville. I was home, with my wife.

Q. You are a married man?—A. Yes sir.

Q. And you had your wife there with you?—A. Yes, sir.

Q. And you were allowed to sleep out in town where your family were?—A. Yes, sir; I was on pass that day.

Q. Had you any family besides your wife?—A. Yes, sir; I had one child.

Q. You had one child?—A. Yes, sir.

(Senator Overman here explained the map to the witness.)

By Senator FORAKER:

Q. Show him where the Allison saloon was. The Allison saloon was away up above that map. You know where Elizabeth street is, and there is the alley there. Do you remember that alley there?—A. Yes, sir.

By Senator OVERMAN:

Q. Do you know Elizabeth street?—A. No, sir; I don't know the name of it. I know the street was there.

Q. You recognize the streets without recognizing the names?—A. Yes, sir.

By Senator FORAKER:

Q. Tell us where you were.—A. I was up this way, about three blocks.

Q. On what street?—A. I don't even know the street. This is the road [indicating on map].

Q. Yes.—A. My house was on the corner here, somewhere on that side of the street, right on the corner.

By Senator OVERMAN:

Q. Beyond the guardhouse?—A. Yes, sir. This is the guardhouse [indicating].

Q. Yes.—A. That makes me right up in here somewhere [indicating on map].

By Senator FORAKER:

Q. The next street is Jefferson street, I believe, up there.—A. I didn't stay there long enough to learn the names of the streets.

Q. Had you been occupying that house ever since you were at Fort Brown?—A. Yes, sir.

Q. You slept there every night?—A. No, sir; not every night. Some nights I was on guard.

Q. I mean when you were not on duty.—A. Yes, sir.

Q. And you had permission from your officer to stay out?—A. Yes, sir; I had permission; but that night I was on pass.

Q. What time did your pass commence?—A. My pass commenced at 12 o'clock.

Q. Where was your gun that night?—A. In the quarters, in a gun rack.

Q. Did you not have your gun with you out at your house?—A. No, sir.

Q. Did you not have your gun there with you?—A. No, sir.

Q. Did you have your ammunition?—A. No, sir; we are not allowed to have anything like that.

Q. They were all at the quarters?—A. Yes, sir; all at the quarters.

Q. You were not allowed to take your gun with you when you were out on pass?—A. No, sir.

Q. Where were you when this firing commenced?—A. I was at home and in bed.

Q. Awake or asleep?—A. I was asleep. My wife was awake, and she wakened me up.

Q. What did you do when you got awake?—A. I got out of the bed and got down on the floor. It was a little kind of a shack, right down on the ground, anyhow—the floor right low down to the ground—and I got out and got down on the floor, and my wife got out, and I taken the baby in my arms and laid down there and waited until the firing was over.

Q. You and your wife and baby were there in the house when the firing commenced?—A. Yes, sir.

Q. And you got down on the floor and waited until it was all over?—A. Yes, sir.

Q. And did you and your wife and child stay there until it was all over?—A. Yes, sir.

Q. What did you do then, if anything? Did you go to the quarters?—A. No, sir.

Q. You remained there that night?—A. Yes, sir.

Q. When did you return to the quarters?—A. About 11 o'clock the next day.

Q. You had a pass that authorized you to remain out?—A. Yes, sir; my pass was out at 12, and I went in before 12.

Q. Your pass expired at 12?—A. Yes, sir.

Q. And you went in before?—A. Yes, sir.

Q. There was an order announced on the 13th canceling all passes and requiring everybody to be in before 8 o'clock. Did you know of that order?—A. No, sir; I did not.

Q. They sent out patrols to find men out on pass and bring them in. Did they find you and notify you?—A. No, sir.

Q. Where were you that afternoon?—A. Right there at home.

Q. Nobody came to your house to inform you?—A. No, sir.

Q. So that you knew nothing about that order?—A. No, sir.

Q. But you remained out on pass?—A. Yes, sir.

Senator FORAKER. I will suspend there. That is all.

By the CHAIRMAN:

Q. You said you were out on pass. For how long was that pass?—A. From 12 until 12.

Q. From 12 noon until 12 midnight?—A. No, sir; from 12 noon until 12 the next day.

Q. It had not expired when you reported for duty?—A. No, sir. It was from 12 of the 13th until 12 of the next day.

By Senator OVERMAN:

Q. You say that you did not always have a pass?—A. I made orderly for the commanding officer, and he always issued a pass; he would give you a pass.

Q. Yes; but you say sometimes you didn't have passes. Why did you have a pass this time?—A. I made orderly. I just came off the guard that day.

By the CHAIRMAN:

Q. That is a present, I suppose, to a man for good behavior. A man is selected for orderly because he is clean and well dressed?—

A. The man that goes on guard that is the most neatest and cleanest,

he is always selected as the commanding officer's orderly, and he is given a pass for a benefit.

By Senator FORAKER:

Q. He is given that without any request?—A. Yes, sir.

Q. And this was a pass that you got in that way?—A. Yes, sir.

Senator BULKELEY. I understand they go off duty, and when they get a pass they are relieved from all duty, and the other guard is put on fatigue duty.

By Senator FORAKER:

Q. You escape fatigue duty?—A. Yes, sir; you don't have to do anything around quarters, and you just have to act as orderly.

Q. And that was important to you because you had a family?—A. Yes, sir.

Q. Did you have anything to do with this shooting on the night of the 13th?—A. No, sir.

Q. Have you any knowledge that leads you to suspect that anybody in your company had anything to do with it?—A. No, sir; I have not.

Q. Or that anybody in either of the other companies had anything to do with it?—A. No, sir.

Q. Did you have anything to do with it yourself?—A. No, sir.

Q. Have you kept any knowledge of this away from anybody? Have you refused to tell anything you knew about it to anybody?—A. I have told all I knew about it to everybody.

Q. You have never refused to tell anything that you knew about it?—A. No, sir.

Q. You have been ready and willing to tell all that you knew about it, always?—A. Yes, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. You had been living up there at the corner of Jefferson street and Garrison road for how long?—A. I don't know, sir; about two or three weeks, I guess. I got this place in two or three days after I got there.

Q. The members of your company knew, of course, where you were?—A. Yes, sir.

Q. They used to come to see you and visit you there?—A. Yes, sir.

Q. So that a patrol could have found you very easily if they had wanted to?—A. I suppose so, if they had come in.

Q. When you were awakened by your wife, the shooting was going on?—A. Yes, sir.

Q. Just tell us where that shooting seemed to have been.—A. It was a good ways down toward the gate, it seemed to me.

Q. That is, from your house down toward the gate. Now, if you will look at this map, if you please, this is Elizabeth street and this is the gate [indicating]. There is a telegraph office there at the corner of Garrison road and Elizabeth street, and that place marked with a figure "2" is the Cowen house. Do you know where that was, back in the alley between Washington and Elizabeth streets, and on the corner of Fourteenth street and the alley? You knew where that was? You knew where that alley was, did you?—A. Yes, sir; I knew where the alley was.

Q. Just generally, this shooting, where would you locate it with reference to those places?—A. It seemed to me like it was right down in that part of the town.

Q. Right in that part of the town where these houses were?—A. Yes, sir.

Q. Right in that alley, in that neighborhood. You would not attempt to locate that within 25 or 50 feet, would you?—A. No, sir.

Q. No soldier would?—A. I was farther than any 25 or 50 feet from that place.

Q. How is that?—A. I was farther away than 25 or 50 feet.

Q. But you would not attempt to locate it closer than 25 or 50 feet?—A. No, sir; not hardly.

Q. About how many shots did you hear?—A. Well, I estimated it to be about between 35 and 40, it seemed to me.

Q. And when you were on the floor with your little child it seemed to continue a good while, did it not?—A. Yes, sir; it did.

Q. It looked like a long time, of course?—A. Yes, sir.

Q. The next day you went into quarters at 11, that being an hour before the expiration of your pass: Did you meet citizens during the forenoon up around where you lived. Did you talk with citizens?—A. Yes, sir; I talked with some Mexicans.

Q. And others?—A. Yes, sir.

Q. Did you learn from them who it was that was said to have done the shooting?—A. No, sir. They seemed to have an idea that the soldiers did the shooting.

Q. They talked that way, did they not. They said that the soldiers did the shooting?—A. Yes, sir.

Q. And when you went down back to quarters, did you go down to the gate?—A. I went down to the gate; yes, sir. The guard was all on, and I couldn't get in.

Q. You couldn't get in?—A. No, sir; I didn't try to get in.

Q. Otherwise, if it had not been for the guards, where would you have gone in?—A. I would have gone in right back of these empty quarters there.

Q. That is, the quarters marked 36?—A. Yes, sir; marked 36.

Q. When you say the guard stopped you, that was the cossack post that had been put on?—A. Yes, sir.

Q. An extra guard all around?—A. Yes, sir.

Q. How would you have gone in back of barracks No. 36 instead of going down to the other gate?—A. Well, there was a wire fence there. The wall didn't go any farther than just a little above No. 36.

Q. And people went through there?—A. Yes, sir.

Q. The wires were loose, and you would raise up a wire and go through?—A. Yes, sir.

Q. There was no trouble about that at all?—A. No, sir.

Q. Now in going down to the gate, of course you would go on the street past where the telegraph office was. You had learned that the telegraph office had been fired into, had you not?—A. No, sir; I did not know what building had been fired into, not being out there.

Q. You had not learned that?—A. No, sir.

Q. Did you not learn before you went into the post that ammunition such as was used by the troops had been found?—A. No, sir; I heard that afterwards.

Q. You heard that afterwards?—A. Yes, sir.

Q. But after this shooting you did not go out of the post much?—
A. No, sir.

Q. You had lived there some weeks. You were treated nicely, were you, and your family?—A. Yes, sir.

Q. You had no trouble whatever?—A. No, sir.

Q. With anyone?—A. No, sir.

Q. And the night of this shooting you remained, of course, as you say, with your wife and child, instead of going into the post?—A. Yes, sir.

Q. After you had gotten into the post you pretty soon learned of the fact, did you not, in there, that it was claimed that the colored troops had shot up the town?—A. Yes, sir.

Q. And that ammunition had been found?—A. Yes, sir.

Q. Did they discuss it much?—A. Yes, sir; they talked it over at times.

Q. What did they say about it?—A. Well, we all wondered who did the shooting, and the cause of it, and so forth.

Q. What else? Just tell us fully, Johnson, just in your own way?—A. Well, that was just about our discussion over it afterwards.

Q. Did you hear anybody saying that anybody had shot at the barracks?—A. Yes, sir; we wondered, too, about the shooting at the barracks; but we didn't see any mark, any such mark, I don't think.

Q. The fact is you did not find any marks, did you?—A. No, sir; I never saw any.

Q. You made some examination, did you not, Johnson?—A. Yes, sir; I would naturally look around.

Q. Yes; naturally: just to determine whether the citizens had done the shooting at the barracks. You were looking for some evidence of it?—A. Yes, sir.

Q. And you examined the barracks and found no marks whatever?—A. No, sir.

Q. I take it from your general appearance that you do not drink?—
A. No, sir.

Q. And you were at home with your family?—A. Yes, sir.

Q. You do not spend your money at the saloons?—A. No, sir.

Q. But you spend it on your wife and child?—A. Yes, sir.

Q. As is proper. I take that from your general appearance. I want that to go into the record. And having an interest in the command, you were looking around to see if you could find any evidence of shots in the barracks, of them hitting them?—A. Yes, sir.

Q. And you could find none?—A. No, sir.

Q. Did you report this to your comrades: "We can find no place where the barracks are hit by the shooting?"—A. Yes, sir; it was all talked over from time to time.

Q. How did they attempt to explain, those who were in the barracks at the time, Johnson—pardon me, Mr. Johnson—the fact that it was claimed that citizens had done the shooting, and no evidences were found of the bullets hitting the barracks? How did the soldiers attempt to explain that, the soldiers or the noncommissioned officers, in your talks?—A. Well, they didn't seem to understand it: couldn't understand it at all.

Q. Did you ask them how it could be, if citizens did the shooting, that no bullets struck the barracks; because you were not in the barracks?—A. Yes, sir.

Q. What did they say about that?—A. They didn't seem to understand it.

Q. Do you remember what answer was given by any of them?—A. No, sir.

Q. Did you talk with any of the noncommissioned officers. Mr. Johnson?—A. Yes, sir.

Q. Which ones?—A. I talked with several of them. I don't remember.

Q. Who was the first sergeant of your company?—A. Sergeant Harley was acting first sergeant at that time.

Q. Acting first sergeant?—A. Yes, sir.

Q. Your first sergeant was away, I believe?—A. Yes, sir.

Q. Over at the—A. At the shooting competition.

Q. Did you talk with Acting First Sergeant Harley?—A. Yes, sir.

Q. How did he explain it?—A. It was a kind of dark thing. He couldn't understand it at all.

Q. Did you talk with any of the other noncommissioned officers?—A. Yes, sir; I think I did. I did.

Q. What did they say, if anything, about it?—A. They seemed to have the same idea that Sergeant Harley had.

Q. You had heard before this of some of the men making complaints of the way they had been treated at Brownsville, had you not—some of your companies there?—A. Yes, sir.

Q. They seemed to think they were not treated very well there?—A. Some of them. No, sir; they had not been.

Q. And that is the case at any post—there are always some of them who think they are not well treated, are there not?—A. Yes, sir; I think so.

Q. That is your observation as a soldier?—A. Yes, sir.

Q. With those who drink and go out and carouse around, that is usual in the case of any post, is it not?—A. I do not understand you.

Q. I say, with those who drink and go out and carouse around, that is the case usually anywhere; that they are not treated very well?—A. Well, yes, sir.

Q. Who were these who complained about the treatment they received, Johnson?—A. One fellow claimed that he went over to Matamoros on a pass, and he got pushed overboard, or something, down at the river there.

Q. What did he say about it? Did he seem pretty mad about it?—A. Yes, sir; he seemed to think he was mistreated without any cause.

Q. Where did that occur?—A. This was some time before.

Q. I know; but in the mess room or the barracks?—A. Yes, sir; he told it about.

Q. Then you heard some of those who went to the saloons complaining that they were not permitted to go in and drink in the saloons with white people?—A. Yes, sir; some of them.

Q. Were there not a good many that way?—A. Well, yes, sir.

Q. Was there not a good deal of complaint among them, in substance saying that they wished they had not come to Brownsville, and they wanted to go away from there?—A. I do not know as any of them wanted to go there particular.

Q. What is that?—A. I don't know as any of them wanted to go there, particular.

Q. What makes you think that, Mr. Johnson? Just give your own reason for that.—A. They were just kind of satisfied with the place they were at. They were well satisfied with it, and moving around cost us something. They were satisfied to stay.

Q. Was that fact discussed much?—A. No, sir; not very much.

Q. But it was a fact that when you went down there the members of the company thought that they did not want to go there, did they?—A. Well, they didn't find things exactly like they expected to, I don't suppose.

Q. That is, after they got there?—A. Yes, sir; after they got there.

Q. And were very much dissatisfied?—A. Yes, sir.

Q. Was that talked of generally?—A. Yes, sir; it was frequently spoken of.

Q. But you yourself, as you say, had no complaint to make whatever?—A. No, sir; not any. I got along all right.

Q. And your wife was treated well, as far as you know?—A. Yes, sir.

Q. And you lived outside of the reservation—out in the town?—A. Yes, sir.

Q. With Mexicans living around you there, and others?—A. Yes, sir.

Q. How far was the Allison saloon, which the evidence seems to show was up on Garrison road there, out beyond you, from you? How far out beyond you was that?—A. That must have been about two blocks, as well as I can estimate now.

Q. In what direction was all the shooting you heard that night? Down in the direction you have spoken of?—A. Yes, sir.

Q. Did you hear any shooting in the direction of the Allison saloon?—A. I did not; no, sir. I did not.

Q. Well, you were pretty wide awake after you were awakened?—A. After I was awakened.

Q. With your wife and child there, you were paying pretty close attention to the shooting, were you not?—A. Yes, sir; I was.

Q. Did you hear any shooting in the reservation at all, out toward the hospital or the guardhouse, or the corral, or any of those places?—A. Well, if I did I couldn't distinguish it.

Q. That is, as far as you know you heard no shooting, then, in that direction, whatever?—A. Yes, sir.

Q. You heard the call to arms?—A. Yes, sir.

Q. I do not know that I asked you, Mr. Johnson, and if not I will do so now; from your experience as a soldier, hearing shooting, about how many men would you say were engaged in that shooting?—A. Well, I don't hardly know how many it could have been.

Q. I assume that neither you nor anyone else could tell accurately just how many, but give us your judgment, just your best judgment?—A. I presume it would be between 25 and 30 shots. I couldn't tell anything about it. I couldn't tell anything about it, because each man may have fired one shot.

Q. You would not assume to estimate the number that were there in that shooting, then?—A. No, sir.

Q. You did not go out into the town to examine these buildings after the 13th?—A. No, sir.

- Q. The troops were kept in the quarters after that, were they not?—
 A. Yes, sir.
 Q. And yours was what company?—A. C Company.
 Q. Company C?—A. Yes, sir.
 Q. You had how many rounds of ammunition?—A. Ten, sir.
 Q. You left that in the barracks?—A. Yes, sir; in the barracks.
 Q. What kind of ammunition was that?—A. It was guard ammunition.

By the CHAIRMAN:

- Q. That would be ball cartridges, would it not; regular service cartridges?—A. Lead bullets, sir.
 Q. Not the regular cartridges?—A. No, sir; not the regular cartridges.
 Q. The reduced range cartridges?—A. Yes, sir.
 Senator FORAKER. I want to offer in evidence at this point, if you will excuse me, the testimony of this witness found at page 132 of Senate Document 155, as given before Colonel Lovering.
 The testimony referred to is as follows:

Private Edward Johnson, Company C, Twenty-fifth Infantry.

- Q. Where were you when the shooting commenced?—A. I was on pass that night out in town. I am married and had a wife and little baby; at home that night, on orderly pass.
 Q. Did you hear the shooting?—A. Yes, sir.
 Q. Where did you stay during the shooting?—A. I stayed there with my wife and child.
 Q. Did you see any soldier that night while you were in Brownsville?—A. No, sir.
 Q. After the shooting?—A. No, sir.
 Q. Were you ever abused in Brownsville?—A. No, sir.
 Q. Anybody ever abuse your wife in Brownsville?—A. No, sir.

By Senator WARNER:

- Q. You were there when Colonel Lovering made the examination, were you not, to find out who did this?—A. Yes, sir.
 Q. And Captain Lyon?—A. Yes, sir; I was there all the time until I was discharged.
 Q. They, as far as you saw, tried to find out all that they could about it, did they?—A. Yes, sir.
 Q. They gave you an opportunity of telling all you knew about it?—A. Yes, sir.
 Q. And were anxious to have you tell all you knew about it?—A. Yes, sir.
 Q. As far as you saw?—A. As far as I understood.
 Q. Where were the troops when General Garlington made an examination—Inspector-General Garlington?—A. At Reno.
 Q. You saw him also, did you not?—A. Yes, sir.
 Q. General Garlington?—A. Yes, sir.
 Q. He was trying to find out what he could about it, too, was he not?—A. Yes, sir.
 Q. As far as you know every soldier wanted to tell all he knew about it?—A. Yes, sir.
 Q. And opportunity was given to tell?—A. Yes, sir.
 Q. Senator Foraker desires me to ask you, you were not one of the 12 who were arrested?—A. No, sir.

Senator FORAKER. But Oscar W. Reid was.

A. Yes, sir; Reid were.

Q. Oscar W. Reid was one of those arrested?—A. Yes, sir.

Q. He was the one who was alleged to have been pushed off of a gang plank into the river?—A. Yes, sir.

By Senator FOSTER:

Q. Johnson, how far was your house, or is your house, from the gate that leads into the barracks?—A. From the gate?

Q. Yes; the gate fronting Elizabeth street, opening into Elizabeth street.—A. It must have been about three blocks, the best I can say. I don't really know how many now; it might have been four.

Q. About how many yards, would you say?—A. I don't know, sir.

Q. Have you any idea?—A. It was, I guess, about 500 yards.

Q. There were houses between your house and the point where this shooting took place, were there not?—A. Yes, sir.

Q. There were plenty of houses there between your house and that alley down there—Yturria alley?—A. Yes, sir.

Q. The main portion of the town of Brownsville is to the right of Elizabeth street, as you go out of the barracks, is it not, out of the quarters?—A. I guess so, sir.

Q. Are they large houses or small houses?—A. But I didn't go around in Brownsville there.

Q. You could see Brownsville, where the houses were, from any portion of the grounds, could you not?—A. But I don't know which side of Elizabeth street was the main portion of town.

Q. Had you ever heard any shooting there before?—A. Yes, sir; we could hear shooting around there most any time.

Q. Now, if there were houses between your house and the point where you heard this shooting, what reason did you have to get down on the floor and take your wife and baby down on the floor? How could any of those bullets reach you if all these houses were between you and the point where you thought the shooting took place?—A. A man can think wrong sometimes, and I might have had a wrong idea about it, and as I had had a military training, I knew that if a man would get down low he would have a better chance to live than if he stood straight up.

Q. Then your lying down and taking that recumbent position was from a kind of military instinct, was it?—A. I don't understand you.

Q. Lying down instead of standing up.—A. Yes, sir.

Q. When you ever heard firing in the town before, did you ever lie down on the floor in your room?—A. There never was so much of it before.

Q. There never was so much of it before?—A. No, sir.

Q. How long do you suppose you were lying down on the floor?—A. I haven't the least idea. But I wasn't down there an hour.

Q. What is that?—A. I say I haven't the least idea, but I wasn't down there an hour.

Q. When did you go out of the fort that day, on the 14th? What hour, as nearly as you can, do you fix as the time you left the fort on your pass?—A. After eating dinner, it might have been one o'clock or a little later, but I had dinner in the post and then left.

Q. That would take you until about 2 o'clock; 1 or 2 o'clock?—
A. It might have been that late, sir. I don't remember now.

Q. Now, when the sound to arms is given, what does that signify to a soldier?—A. That means some trouble. It means to assemble.

Q. That means to assemble, does it not?—A. Yes, sir.

Q. You understood when the bugle sounded that night that it meant for the soldiers to assemble, did you not?—A. Yes, sir.

Q. Why did you not respond to the call to arms that night?—

A. Well, I was there with my wife and child, and nobody else there with them, and I just stayed there with them, sir—a little child about nine months old.

Q. Did you suspect at that time that anything was going on unusual?—A. While the shooting was going on?

Q. Yes.—A. Yes, sir; that much shooting was unusual.

Q. Did you suspect that the fort was being attacked?—A. I couldn't hardly think what it was, sir. It kind of stirred me up.

Q. And you did not return to the fort until the next day about 4 o'clock?—A. No, sir.

Q. You stayed in there with your wife and child until that time?—
A. I did; yes, sir.

Q. When you were examined before Colonel Lovering, did you make any such statement as that?—A. Yes, sir.

Q. Did you make the statement that you were lying down on the floor during the firing?—A. I did, sir.

Q. Did he take it down in writing?—A. I don't know, sir, about that.

Q. Was your evidence read over to you?—A. I don't know that it was, sir. I don't remember.

Q. Did you give any evidence before General Garlington?—A. Yes, sir.

Q. Was the evidence that you gave before Colonel Lovering taken by a shorthand reporter?—A. I think it was, sir.

Q. And you gave the same evidence before him as you are now giving?—A. Yes, sir.

Senator FOSTER. That is all.

By Senator WARNER:

Q. Just one question. The call to arms, we have in evidence what that is. Now, there is another call, the assembly, is there not?—A. Yes, sir.

Q. What is the difference in the Army now between the call to arms and the assembly?—A. Well, assembly—it goes at most any cause; at guard mount and inspection and all those things, you know. They have one call to let you come to the place where they want you, and then they have you—assembly means to assemble, you know, to line up.

Q. That is, at the rallying point, where they meet?—A. Yes, sir.

Q. Is not the assembly the usual call after a call to arms?—A. I don't think so, sir.

Senator WARNER. You do not think so? I do not know, Mr. Johnson, myself. That is all.

(The witness was excused.)

At 1.35 o'clock p. m. the committee adjourned until Monday, March 18, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Monday, March 18, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Bulkeley, Warner, Pettus, Foster, Overman, Frazier.

The CHAIRMAN. The following telegram has been sent here from the office of The Adjutant-General of the Army:

SAN ANTONIO, TEX., March 17, 1907.

THE ADJUTANT-GENERAL U. S. ARMY, Washington, D. C.:

Chief of police, Galveston, has just wired me confession of Gray, supposed discharged soldier, appearing in papers to-day, is a fake.

BLOCKSOM, Major.

Senator FORAKER. Mr. Chairman, in connection with that I desire to put in evidence an article which I cut out of the Washington Herald this morning, purporting to be a telegram from Galveston, Tex., under date of March 17, giving the alleged confession of Gray. The article is as follows:

Discharged negro confesses to raid—Brownsville soldier makes sworn statement—Men had been drinking—Alleged insult from white resident starts trouble—About fifteen of the enlisted men said to have taken guns from racks and started to avenge their companion—After sentry is fired the raiders start down street and begin indiscriminate shooting.

Galveston, Tex., March 17.—The mystery surrounding the murderous midnight raid of the negro soldiers from the Twenty-fifth Infantry upon the people of Brownsville on August 13 is dispelled by the reported sworn confession of D. C. Gray, a discharged soldier of Company B, who is in Galveston. In his statement Gray said:

"On that night I was in the barrack room with a number of fellows, and we were sitting around playing cards, when one of our fellows came in excited like and said that a white man had insulted a friend of his, and that when he came into the room the white man had landed on him.

"He was awfully excited, and we all stopped playing and listened to what he was saying. There were a lot of the boys in the crowd with the Mexicans and white people of the town, and they came over to where he was bending down over his trunk and asked him what he was going to do. He said 'I am going to fix that white —— so that he will never fool with another soldier's friend.' As soon as he said that one of the men out of another company swore and said: 'By ——, I'll go with you. Everybody but me and one or two others spoke up at once and said they would go with him.

"It was about midnight, and the men made a rush for the gun racks, and about 15 men left the barracks, fixed the sentry, and scaled the wall and started for town, headed by the leader. Most of them had been drinking. One of the younger boys had fired a shot into the house of Mr. Cowarts, on Fourteenth street. Then all of them began shooting.

NEGROES ARE LIKE SHEEP.

"Negroes are just like sheep when it comes to anything of that kind, you know, and that accounts for it. They shot into the house of Starks, on Washington street, as some of the boys did not like him and they wanted to kill him. They ran down an alley to Thirteenth street, shooting, and at this place, where the alley joined onto Elizabeth street, they met the Mexican policeman, Dominguez, on his horse.

"All this was right near the the Miller Hotel. The policeman said: 'Hey, there, you boys; what are you doing?' and pulled his pistol. The boys knew he wanted to pull them, and they shot at him. Dominguez fired at the boys first. Anyway, all of them said that when Major Penrose examined them.

After the boys had gotten into the scrape they forgot to go on down and let — settle his trouble, for the people were getting on the streets, and they are certainly fighters. After they had shot at Dominguez his horse carried him down the street and divided up. They were afraid of getting hemmed up in the street.

"Some of the boys had had trouble in the saloon run by Frank Nataus, and they fired in the direction of his place. Just as things would have it, he came out to the back of it to close the gate, and one of the boys shot at him. They were still firing and going toward the post when the bugle sounded at the post and they knew it was all off. They stopped shooting then and made for the barracks, so that they might get in their beds before it became known they had been out. I don't believe they were in town more than twenty minutes. Then, about this time, one of the boys came panting into the room. He had his gun with him and flung it under his mattress and pulled off his coat and pants and got into bed. Then two more of them came in, and before I knew it the whole post was busy.

TOLD TO CLEAN GUNS.

"One of the boys from the guardhouse ran into the room and said in a loud whisper: 'If there are any of you fellows in that dirty business, you had better be getting your guns into shape and put them in the rack. Don't lose any time, for I know the captain is calling for the guard, and there will be inspection.'

We all helped some of them to get their guns as clean as was possible in the dim light, but they had mostly used pistols and they did not clean them until that day about 3 o'clock. Just at this time the first sergeant called out to hustle our clothes on and fall in. We were all partially undressed and mixed up in the room after helping the boys clean the powder out of their rifles, and it was several minutes before we could find our clothes and get into them.

We tumbled outside, and after some confusion and scrambling around the roll was called, and I believe everybody answered to their names except some of the boys who were excused. There was no need for anyone to answer anyone else's name that night, because everybody was in line except the men who were excused on account of special duty. The fellows who had done the shooting and worked up all the racket had gotten inside the post and were lined up with the rest. We swore to stick to the lie. Five of the 12 arrested were in the raid.

In connection with that I want to call attention to the fact, which already appears before the committee, that there was no man of the name of D. C. Gray a member of Company B, or a member of any other company stationed at Brownsville. There were two men by the name of Gray in Company C, but their initials were different. I have made inquiry this morning and learn that one of them can be reached in Indiana and the other in North Carolina, according to their last addresses. Now, if the committee desires, I will have them subpoenaed at once, so they may come here; but I suppose it is unnecessary, in view of this telegram from Major Blockson.

The CHAIRMAN. I should think, Senator Foraker, that it was entirely unnecessary, until we have some better evidence that the parties know something of the case or have had some connection with it.

Senator FORAKER. I think so. Now, I find in the Washington Post of this morning an account of this same matter, similar to that, though not quite so full so far as the confession is concerned, but it contains an additional statement which I want to put in the record here.

The CHAIRMAN. Is it like the other, word for word?

Senator FORAKER. Not at all. It is sent by a different correspondent evidently, and does not undertake to give the statement in full. I called attention to what appeared in the Herald, because it has what purports to be the confession literally. I put in the following, which is not a part of the telegram, but a local news item:

Senator Overman, of North Carolina, who is a member of the Senate Committee on Military Affairs, which is investigating the "shooting up" of Brownsville, Tex., last night, when shown the dispatch from Galveston telling of the alleged confession of a discharged soldier, said that the committee received information two weeks ago that a former member of the Twenty-fifth Infantry had expressed a willingness to make a full confession if he could receive some assurance from the Government that he would be protected.

Senator Overman says that this information was forwarded to Secretary Taft with the suggestion that it be investigated by the War Department. "All the discharged troops who tell the truth about the affair," said the Senator, "will certainly be protected by the Government."

Senator Overman said that to-morrow he will insist that the Senate Committee on Military Affairs summon Gray to Washington to testify before the committee.

Neither the Senate Committee on Military Affairs nor the War Department has received any official report regarding the alleged confession of the discharged colored soldier.

Senator FOSTER. I think I was present at that interview, and I know that a part of the statements made there did not take place when I was there:

Senator OVERMAN. I wish to say that last night——

The CHAIRMAN. You are not called upon to say anything about this, Senator, unless you wish to do so.

Senator OVERMAN. I want to state how it was. Last night, at the Raleigh Hotel, Senator Foster, Senator Frazier, and myself were sitting in the lobby, when two newspaper reporters came and asked us if we had heard about this story. They brought this story that is in the Post there. One of them read it to us. I stated that I had seen in the New York World a few weeks ago a statement that there was a negro who had said he would confess if he was protected by the Government, and I sent that statement to the Secretary of War and asked him if he had not better inquire into it. That is all I stated. Senator Foster heard what I stated.

Senator FOSTER. Yes.

Senator FORAKER. That is all I wanted to know.

Senator OVERMAN. What I had seen previously was an extract from the New York World. It was handed to me, and the person who gave it to me said it was from the New York World, and stated that it was from Galveston; that there was a negro there who would confess if he was protected, but he was afraid of his life, or something like that. I inclosed it to Mr. Secretary Taft and said, "Had you not better investigate this matter?"

Senator FORAKER. I did not see the New York World containing the story to which you refer.

Senator OVERMAN. It was handed to me by Senator Culberson in the Senate before the Senate adjourned.

Senator FORAKER. The chairman having introduced that telegram, I have brought this up so that I may ask the committee whether or not we shall subpoena Mr. Gray.

The CHAIRMAN. I want to subpoena Mr. Gray, if any member of the committee wants him; but I think we ought to subpoena the editor of that paper anyhow, the man who published it and sent it out to the world. A fake interview of that character, if it is such, ought to be exposed to the world.

Senator FORAKER. I think we ought to subpoena the editor of that paper, a man who publishes statements of that kind and sends them out broadcast over the country when questions of murder and perjury

and the reputation of the Army and the good name of the whole country are at stake. I should like to have him summoned before the committee and see what his idea of journalism is.

Senator OVERMAN. I have no objection to that, as far as I am concerned.

The CHAIRMAN. It strikes me that we can not follow down every fake, but we can subpoena anyone whom we think can give us any light. I suggest that we might wait two or three days and see what the developments are.

Senator FORAKER. Very well.

The CHAIRMAN. I have no objection to summoning any of these men, and shall be glad to have the suggestion of the committee; only something may develop in a day or two. We may then want to have somebody summoned.

Senator OVERMAN. I do not know what Secretary Taft did. I sent him that extract.

Senator FORAKER. That was perfectly proper. If I had seen it, I would have subpoenaed the man here.

Senator FRAZIER. You did not state last evening, to these newspaper reporters, did you, that "the committee" had received such information?

Senator OVERMAN. No. You heard what I said. It all happened in your presence. Both you and Senator Foster were there.

Senator FOSTER. Yes.

Senator FORAKER. I only want it to appear in the record that I have not heard of it before. I do not want it to appear that I have failed to subpoena anyone who had information.

Senator WARNER. I do not well see how we are going to run down every fake report.

The CHAIRMAN. I think we had better wait a little.

Senator WARNER. I for one am willing. I want to bring here everybody who will give us any information.

The CHAIRMAN. I think we are unanimous on that.

TESTIMONY OF MATIAS G. TAMAYO—Recalled.

MATIAS G. TAMAYO, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. Mr. Tamayo, you stated that you were a carpenter.—A. Yes, sir.

Q. And you have been a carpenter for how long a time in Brownsville?—A. For about three years, sir.

Q. Have you worked on houses?—A. Yes, sir.

Q. Are you familiar with the construction of frame houses in Brownsville?—A. Yes, sir.

Q. When you return to Brownsville, after being dismissed here, will you measure some distances for us and send the figures back to us?—A. Yes, sir.

Q. If it meets with the approval of the committee, I should like to have Mr. Tamayo measure the distance from the wall along where the garrison road is, the distance from the wall to the barracks; second, the distance from the wall to the line of sinks, the oil house, and

wood sheds, which you described, that stand near the wall.—A. Yes, sir.

Q. And then I would like to have you measure and give us the dimensions—the length, breadth, and height—of those several buildings—that is, the sinks, the oil house, and the wood sheds. I understand you to say there is a road running between the barracks and the wall?—A. Yes, sir; between the barracks and the sinks and the wall.

Q. And the sinks?—A. Yes, sir.

Q. Now, I should like next to have you measure and give us the width of that road.—A. Yes, sir.

Q. Then there is another thing we have not had any satisfactory information about, so far as I can recall, and that is the height of the upper porches of these barracks. Can you measure and determine for us and send to us the height of the upper porches of these barracks?—A. Yes, sir.

Q. The height from the ground?—A. Yes, sir.

Q. And you might give us at the same time the height above the ground of the lower portion of the porches.—A. Yes, sir.

Q. I want you also to measure accurately and send to us the dimensions of the barracks—that is, the length and width of the same, and, if you can conveniently, the height.—A. The height of them; all right.

Senator FOSTER. Would you have any objection to his taking the measurements, say, in company with the mayor of the town?

Senator FORAKER. No objection whatever.

Q. You and Mayor Combe can jointly make these measurements and sign the statement of them. Is there any objection to that on your part, Mr. Tamayo?—A. No, sir.

Q. I will prepare a statement of what is called for here, and we will ask the mayor to accompany you, so that there will be nothing more to do than to write in the figures.

Senator FRAZIER. Why is it necessary to designate this man to go down and make these measurements and then send them to us, a statement of figures about which we will have no opportunity to cross-examine him, when it is probable we will have many other witnesses from there, and possibly a portion of this committee may go there and be able on the ground to take the measurements if they become material or necessary?

Senator FORAKER. It seems to me this would be a very good way to get accurate information about it, because the witness lives there. He must return there anyhow, and he could make the measurements and send them to us, and certainly if he would do it in the presence of and in cooperation with the mayor of the town, if the mayor would agree to help in the matter, that ought to be perfectly satisfactory.

Senator BULKELEY. Is there an officer in command of the fort now?

Senator FORAKER. I think not.

The WITNESS. There is a retired sergeant.

By Senator FORAKER:

Q. A care taker?—A. Yes, sir.

Senator FORAKER. In connection with anybody whom any member of the committee may suggest. That would be satisfactory. I do not think there is any endeavor on the part of anybody to misrepresent as to any of these distances, but one witness says the upper porch is

10 or 12 feet from the ground and another says 20, and I think it is important that we should have an accurate measurement.

Senator BULKELEY. I think this witness has already testified as to the size of the buildings.

Senator FORAKER. The witness testified, as I remember, that he thought they were about 100 feet long and 40 feet wide, and then he put a rule on the map, and if that map be correct they are 150 feet long and 70 feet wide. Now, it is just to settle questions like that.

Senator WARNER. We will necessarily have Mayor Combe here.

Senator FORAKER. Yes.

Senator WARNER. And it would occur to me that if you make out a list of just what you want and have him make the measurements, then you might save the trouble.

Senator FORAKER. If you will allow me, I will prepare a letter and have the chairman sign it requesting Mayor Combe to join in the measurements.

The CHAIRMAN. Make the specifications and I will sign the letter.

By Senator FORAKER:

Q. Now, Mr. Tamayo, are you familiar with the following houses in Brownsville: the Cowen house, the Yturria house, the Garza house, and the Starck house, and the building over the telegraph office where Mr. Rendall lives? I do not know what they call it; it is the Western Union Telegraph office building.—A. Yes, sir.

Q. You are familiar with those?—A. Yes, sir; I know all those buildings from the outside.

Q. What kind of buildings are they?—A. Frame buildings.

Q. Can you tell us how thick the weatherboarding is on those houses?—A. About half an inch thick.

Q. And how are those houses finished on the inside?—A. They are some of them sealed with boards, and some have a kind of rough board inside about an inch thick, and wall paper—for instance, like the telegraph office, which has paper all inside.

Q. Now, what is this weatherboarding nailed on to?—A. On scantling about 2 by 6 or 2 by 8.

Q. Is there any sheathing between the weatherboard and the scantling or studding, as we call it?—A. No, sir; I do not think so.

Q. As to the ceiling on the inside, is there anything between that and the studding?—A. No, sir; nothing but the ceiling.

Q. Just nailed on?—A. Yes, sir.

By the CHAIRMAN:

Q. Is there any building paper between?—A. No, sir.

By Senator FORAKER:

Q. Such as asbestos paper or anything of that sort?—A. No, sir; nothing of that kind.

Q. How wide apart are the studdings?—A. Seem to be about 3 and 4 feet.

Q. Three or 4 feet apart?—A. Yes, sir.

Q. And how large are those studding pieces; what are the dimensions?—A. How large?

Q. Yes; how thick and how wide?—A. Two by 6, and some of them 2 by 8—2 inches thick and 6 inches wide.

Q. With these spaces between that you have mentioned?—A. Yes, sir.

Q. You are familiar with the general character of the construction of these houses. Can you tell us about the inside walls, the partition walls, how they are constructed, if you know? What are they made of?—A. Ceiling on both sides.

Q. Ceiling on both sides?—A. Yes, sir.

Q. What is the thickness of the ceiling?—A. About three-quarters of an inch.

Q. Is there any plaster on those walls?—A. Well, sir, I don't know about Mr. Yturria's. I have never been inside Mr. Yturria's house. I don't know whether it is plastered or ceiled inside.

Q. What kind of houses are they as to height; that is, are they two stories or one story?—A. Well, the only one there is Mr. Yturria's. That is a one-story house, and Mr. Rendall's.

Q. Mr. Yturria's is what?—A. One story high, and Mr. Rendall's.

Q. Mr. Rendall's is what?—A. One story high, too.

Q. Mr. Rendall—doesn't he live over the telegraph office?—A. Yes, sir; upstairs.

Q. Well, what do you mean by saying it is only one story if he lives in the upper story?—A. Well, that is it.

Q. I do not mean one room, but how high is it?—A. Mr. Rendall's?

Q. Yes.—A. Might be about 20 feet high.

Q. I will show you a picture here, as an exhibit to Senate Document No. 155, part 2. Is picture No. 15 here a picture of the Western Union building?—A. Yes, sir.

Q. Now, that seems to be a two-story building.—A. No, sir; it is only one.

Q. How can it be only one? I want to understand what you mean.—A. Right here is where Mr. Rendall lives, upstairs. He goes into this door. Here is the telegraph room; here is the partition inside; this is the telegraph office here, and he occupies the upper floor.

Q. He occupies the upper floor. Then is there not a lower floor also?—A. No, sir.

Q. Is there not a lower floor where the telegraph office is?—A. Yes, sir.

Q. You mean there is only one story to the part of it that he occupies; that is, the upper part?—A. Yes, sir.

Q. But it is a two-story building, isn't it? That is, here is one story occupied by the telegraph office, and there is another story up there where he lives, isn't there?—A. No, sir.

Q. Well, I don't understand it. Explain how that is.—A. This is the first floor right here, and this is the second one. Mr. Rendall lives right here.

Q. Well, I know; he lives right there where these windows are?—A. Yes, sir.

Q. Now, then, there is a floor right under those windows, is there not?—A. Yes, sir.

Q. The telegraph office is below. That is what I am asking about. Is not that a two-story building, then? That is what I do not understand, and what I am asking about. Are there not two floors—a lower floor, where the telegraph office is, and another floor above, where he lives?—A. Yes, sir.

Q. That is what I mean by a two-story building. Mr. Rendall lives over the telegraph office, where these three windows are, as shown in picture No. 15 of this book.—A. Yes, sir.

Q. This picture, No. 7, shows the Yturria house. Is that right? Do you recognize it?—A. Yes, sir.

Q. This is a picture taken from the garrison wall, and shows the rear of the house. Now look at that and see whether a part of that is not a second story.—A. That is one here.

Q. Part of the house is a second-story house?—A. Yes, sir.

Q. The point to which you refer?—A. The second story.

Q. The part that shows the gable end, with two windows in it, at the right of the pictures?—A. Yes, sir.

Q. And the rest of it is one story?—A. One story; that is the kitchen right there.

Q. On what street or alley does that kitchen run?—A. On the Cowen alley.

Q. And this house of Yturria's is on the opposite side of the alley from the Cowen house?—A. Yes, sir; the back part is right here.

Q. What is this here [indicating]?—A. That is a windmill.

Q. That is shown in the back part of No. 7, with the Yturria house?—A. Yes, sir.

Q. I ask this so that it may be intelligible in the record. Now, here is picture No. 11, that I want to call your attention to. Whose house is that, if you can tell?—A. I think that is Mrs. Leahy's.

Q. It says at the bottom, "Showing Cowen house and alley to the east." Do you recognize it now?—A. Oh, yes; that is Mr. Cowen's house.

Q. That is the Cowen house?—A. Yes, sir.

Q. That is a one-story house?—A. Yes, sir.

Q. There is another picture here of the Starck house. What house is this one, No. 12?—A. That is Mr. Cowen's.

Q. That is another picture of it?—A. Yes, sir.

Q. You recognize the house from that picture?—A. Yes, sir.

Q. Do you recognize the house in No. 16?—A. I think that is Mr. Starck's.

Q. Mr. Starck's house?—A. Yes, sir.

Q. No. 16?—A. Yes, sir.

By Senator OVERMAN:

Q. Whose house is that next to the Cowen house?—A. On the other side of the alley?

Q. Yes.—A. Mr. Garza's.

By Senator WARNER:

Q. The road between the barracks and the garrison wall—is that a dirt road or is it paved with brick or stone?—A. No, sir; it is a dirt road.

Q. And the road to the gate, is that paved?—A. No, sir.

Q. A dirt road?—A. A dirt road; yes, sir.

Q. I do not remember, now, where it was you met or saw the sentry.—A. The sentry?

Q. On post.—A. On post; I met him when I went in B barracks to get a drink of water, when I had just finished my work at the company sink.

Q. You met him as you were going in?—A. Yes, sir; he was coming from east to west.

Q. From east to west; that is coming from C barracks?—A. To D barracks.

Q. To D barracks, and you met him about the center of B barracks?—A. No; he was coming about 10 feet away from me when I met him.

Q. Ten feet away, to the east of you?—A. Yes, sir.

Q. That is, 10 feet off toward C barracks?—A. Yes, sir.

Q. And you were in there, I think you said, a second or two, just time to get a drink of water?—A. Just a few seconds; yes, sir.

Q. And when you came out the sentry was not in sight?—A. I could not see him; I never paid any attention to him.

Q. You did not see him any more?—A. No, sir.

Q. Do you know how far that post extended? It extended around all of the barracks, did it not?—A. No, sir; just around B barracks.

Q. Around B barracks?—A. Yes, sir.

Q. Was there a sentry around C barracks?—A. He used to go around from the vacant barracks to B barracks and turn at the corner again and come around the vacant barracks again. They never used to go around D barracks.

Q. Then his beat was around C and B barracks?—A. Sir?

Q. Then his post was around C and B barracks?—A. No, sir. If you will allow me, I will show it on the map.

Q. I will in a minute. You know where B barracks were?—A. Yes, sir.

Q. You know where C barracks were?—A. Yes, sir.

Q. Do you say his post was simply around B barracks?—A. No, sir; he used to go around three barracks—that is, the vacant barracks—

Q. He would start up here at what you call the east side of the vacant barracks, marked "36?"—A. Yes, sir.

Q. Then he would march toward the wall from there?—A. Yes, sir.

Q. Then down west toward the river?—A. Yes, sir.

Q. Until he got here [indicating]?—A. There is where he used to turn.

Q. To the west end?—A. Yes, sir.

Q. Which you call next to the river?—A. Yes, sir.

Q. The west end of B barracks?—A. Yes, sir.

Q. Then he would turn up and go east again to the east end of the vacant barracks?—A. Yes, sir.

Q. So his beat would extend over the length of those three barracks and the spaces between them?—A. Yes, sir.

Q. And the length of each of these barracks, as you gave it, was approximately 150 feet?—A. I said 100 feet.

By Senator OVERMAN:

Q. You measured that on the map and found that the length of one barracks was 5 inches, did you not?—A. Yes, sir.

Q. Which would be 150 feet.

By Senator WARNER:

Q. In this connection I want you to take your rule and measure it on the map. The barracks are all of the same length, are they?—A. Yes, sir.

Q. Just measure one of them, then, if that is the case.—A. (After making the measurement.) Five and a quarter inches.

Q. Which is 5 times 30, or 150 feet?—A. Yes, sir.

Q. Now, if you will please give me the vacant space between B and C barracks.—A. Two inches—60 feet.

Q. Sixty feet, the scale of the map being 30 feet to an inch?—A. Yes, sir.

Q. And the space between the vacant barracks and B barracks is the same, is it not?—A. Yes, sir.

Q. Sixty feet?—A. Sixty feet exactly.

Q. There would be 3 times 150, which would be 450 feet?—A. Yes, sir.

Q. And two times 60 would be 120?—A. Yes, sir.

Q. Which would be 570 feet?—A. Yes, sir.

Q. That would be the length of this post?—A. Yes, sir.

Q. So in walking around his post there, of course it would be twice that, plus the width of the porches and the barracks?—A. Yes, sir.

Q. Now, the space between what you call the west end of barracks B and the roadway leading in from Elizabeth street is how much?—A. Right between the two barracks there.

Q. The space between—well, is there any fence there between B barracks and D barracks?—A. No, sir.

Q. No fence, just the open roadway?—A. The open road.

Q. The gate and the road?—A. It goes between those two barracks.

Q. So that all this time there was no sentry at all posted around company barracks D?—A. No, sir; they never used to go around D Company.

Q. That was left without anyone at all?—A. Yes, sir.

Q. You are quite clear about that?—A. Yes, sir; I am sure about it. I used to see the sentry every night.

Q. Why was that?—A. I don't know.

Q. As you have stated, when you heard the first shot you located it from somewhere about the alley there?—A. No, sir.

Q. Where did you locate it?—A. At the corner of B barracks kitchen.

Q. You were at the corner of B barracks kitchen?—A. Yes, sir.

Q. But where did you locate the shot?—A. Oh; at Mr. Cowen's alley.

Q. At the Cowen alley?—A. Yes, sir.

Q. That is the alley between Elizabeth and Washington streets there?—A. Yes, sir.

Q. And you were then, as you have said, looking toward town?—A. Yes, sir; when I heard the first two shots.

Q. You were frightened?—A. No, sir; not much; a little bit.

Q. A little bit frightened?—A. Yes, sir.

Q. Thought that was a good place to get away from, didn't you?—A. When I heard all the shooting, that was the time when I got a little frightened.

Q. You had a pretty lively mule?—A. Yes, sir.

Q. Was your mule at all fractious?—A. Yes, sir; he was frightened.

Q. He was a kind of skittish mule, was he?—A. Yes, sir. He tried to run away the first time.

Q. Tried to run away?—A. Yes, sir; but I would not let him.

Q. You would not let him run away?—A. No, sir; I just checked him up.

Q. He would run away when he got a chance, would he?—A. Oh, I don't think so. He was very tame and good; a mule that had lots of sense.

Q. All good mules have lots of sense, but you say he was fractious.—A. He was kind of frightened; yes, sir.

Q. That he was a fractious mule; that is, he was a mule that would not stand much foolishness?—A. No, sir.

Senator FORAKER. He did not want to be shot up.

By Senator WARNER:

Q. And he tried to run away there?—A. Yes, sir.

Q. When was that—at the first or second shot?—A. That was when he heard all that shooting.

Q. He stood the first and second shots all right?—A. Yes, sir.

Q. But when he heard the fusillade—A. He started to run.

Q. Were you in the wagon then?—A. No; I was on the ground.

Q. You grabbed hold, and then you went away from there?—A. From there I went away to the administration building, but before that I stopped in front of D Company.

Q. Your mule tried to run when you went away from there?—A. The mule never got away from the place where he was with the cart.

Q. No; you stopped him. I understand that.—A. Yes, sir.

Q. We will not have any confusion about that at all, but he just went away—the mule was frightened and you were frightened and you wanted to get out of danger, didn't you?—A. Yes, sir.

Q. As far as you could see the mule was of the same opinion?—A. Yes, sir.

Q. When you wanted to get out of danger, did you get the mule down to a walk, so that you would get out of danger?—A. Yes, sir.

Q. Went away slowly?—A. No, sir; at a fast walk.

Q. Just a fast walk?—A. Yes, sir.

Q. Your mule could trot, couldn't he?—A. No, sir; he could not very well. He is pretty old.

Q. He could not trot? Could he gallop?—A. No, sir.

Q. Well, he was fractious, but pretty old and could not trot and could not gallop. That is your description of that mule?—A. Yes, sir.

Q. How old was the mule?—A. Well, sir, the officers examined that mule one time and they said he must have been 25 years old.

Q. Old enough to vote?—A. Yes, sir.

Q. And on account of the age of the mule he walked away, but in a fast walk?—A. Yes, sir.

Q. He was a pretty fast walker?—A. Yes, sir; I would not let him run, though.

Q. Did he want to run?—A. Yes, sir; I believe he did.

Q. He could have run then, if you had let him?—A. Yes, sir.

Q. But you would not let him?—A. No, sir.

Q. You thought there was a good deal of danger there?—A. Yes, sir.

Q. Now, as to these buildings, you went in this back door to get a drink, at barracks B?—A. Yes, sir.

Q. Those barracks are all constructed the same, are they not, the back doors the same?—A. They are all exactly alike.

Q. One barracks is a duplicate of another?—A. Yes, sir.

Q. So when you describe one barracks you describe the others?—A. Yes, sir.

Q. You had been in there and were quite familiar with those barracks, were you not?—A. Yes, sir.

Q. So a person from the rear could have come in at the rear door and marched right through the barracks out of the front door?—A. Yes, sir.

Q. One was opposite the other?—A. Yes, sir.

Q. Coming from the second story where the men slept, there was a stairway down the front, was there not?—A. There was two stairways, one on the porch, going this way, and another one on the inside going this way, inside, on the right-hand side of the hall.

Q. Let us see now. You have described one stairway leading down from the porch.—A. From the porch; yes, sir.

Q. Which porch was that?—A. The first porch.

Q. Was it the rear porch or the front porch?—A. The rear porch.

Q. So there was a stairway leading from the rear porch right down, and it came down just at this door, did it not?—A. Yes, sir.

Q. At the foot of the stairway?—A. Yes, sir; on the left-hand side as you were going into the barracks.

Q. So a person could come down from upstairs upon that back porch?—A. Yes, sir.

Q. Back stairway, I mean?—A. Yes, sir.

Q. And on the back porch and step off on the road between the barracks?—A. Yes, sir.

Q. Between the barracks and the wall?—A. Yes, sir.

Q. That is correct?—A. Yes, sir.

Q. There was also a front stairway?—A. Only inside of the building.

Q. That is what you call the front stairway?—A. Yes, sir; on the right-hand side of the hall.

Q. And that came down just inside of the front part of the barracks?—A. Yes, sir; about 4 feet away from the front door, facing the parade.

Q. And as you say, each of the other barracks was constructed in this way?—A. Yes, sir.

Q. Now the wood shed, I think I got it, but I will ask it again so as to get it in this connection. With reference to where you were standing there at the ash can, emptying it, the wood shed was between you and the town then, was it not?—A. Yes, sir; on the other side of the road.

Q. On the other side of the road?—A. Yes, sir.

Q. That is the ash can was located between the wood shed and the barracks, the east end of the barracks?—A. Yes, sir.

Q. And in driving in, you drove over near the wood shed?—A. No, sir; I drove over between the ash can and the porch.

Q. Between the ash can and the porch?—A. Yes, sir.

Q. So when you were standing there the ash can was near the wood shed?—A. No, sir; near the barracks.

Q. Of course you are getting it right, but I do not seem to get it.—A. The wood shed is on the other side of the road, and the ash can is on this side of the road, near the kitchen.

Q. And you drove—A. The ash can was about 10 feet away from the porch, so I could drive between the ash can and the porch.

Q. I think I get it now. You say the ash can was between your cart and the wood shed?—A. That is it; yes, sir.

Q. How far from the wood shed?—A. Well, the width of the road.

Q. This was an iron cart that you had?—A. Yes, sir; with two wheels.

Q. It had wheels?—A. Only two wheels, not four.

Q. If your mule had gone in a gallop or trot away from there that iron cart made a good deal of noise, didn't it?—A. Yes, sir; it used to make a good deal of noise when I would go on a walk.

Q. Make a good deal of noise when you would go on a walk?—A. Yes, sir; of course. It is of iron, and it has lids and everything.

Q. Going on a walk it would make a great rattle?—A. Yes, sir.

Q. And going on a run it would make a good deal more of a rattle?—A. Yes, sir.

Q. Did anybody sleep downstairs in Barracks B?—A. I don't know, sir.

Q. You got your mule down to a walk and walked him over to the front of Barracks D?—A. At a fast walk.

Q. You kept him down to a walk?—A. Yes, sir.

Q. And you stopped him there?—A. Yes, sir; I stopped him there for a few seconds.

Q. To look at the men?—A. Yes, sir.

Q. Then did you keep on walking?—A. Yes, sir; I kept on walking fast.

Q. And all the time, as far as you could tell, you were within the range of the bullets?—A. Yes, sir.

Q. Could hear them going over you. Now, about the time you started from the gate there, or from the ash can—just take the rule there and measure that road and tell me about how far you walked the mule before you got down, in this fast walk, down to where you stopped in front of the administration building. Just take the rule, or if you can tell without—A. No, sir; I will have to measure it.

(The witness went to the map and made some measurements.)

By Senator FORAKER:

Q. Where are you commencing to measure there?—A. From the ash can.

By Senator WARNER:

Q. How many inches do you make it on the map with the rule?—A. Twelve inches.

Q. Twelve inches in all?—A. Yes, sir.

Q. Measure it again and see. A. Three inches here, 6—7 and 5 are twelve.

- Q. Twelve inches?—A. Yes, sir.
- Q. That would be about 360 feet?—A. Three hundred and sixty feet.
- Q. And you walked the mule in a fast walk all the way around, with the bullets whistling over your head?—A. Yes, sir.
- Q. You are clear about that?—A. Yes, sir.
- Q. You have spoken of the construction of these buildings. How many years is it since the telegraph office there was constructed?—A. About three years ago.
- Q. Did you help build it?—A. No, sir; but I saw the men when they were building it.
- Q. So you took notice of it?—A. Yes, sir.
- Q. How long ago was the Leahy house built?—A. That is a very old building.
- Q. The Miller Hotel?—A. That is another very old building. It is made out of brick.
- Q. The other houses you spoke of, they are all old buildings, are they not?—A. Yes, sir.
- Q. You did not see any of them constructed?—A. Only the telegraph office.
- Q. That is the only one you know the construction of?—A. Yes, sir.
- Q. That has rough boards instead of ceiling?—A. Yes, sir; and then paper.
- Q. Inch boards, you say?—A. Yes, sir.
- Q. Half-inch weather boarding?—A. Yes, sir.
- Q. And the paper over the rough boards?—A. Yes, sir.
- Q. And the studding besides, that you have spoken of?—A. Yes, sir.
- Q. And you have told us the distance apart?—A. Yes, sir.
- Q. I think you said you never talked with any of the soldiers about this shooting?—A. No, sir; that night I did not.
- Q. Did you the next day?—A. No, sir. The next day one of the men at the corral, a man by the name of George Miller, one of the corral teamsters, asked me if I was shot. I said no. He asked me if I was afraid and I told him no.
- Q. That was all you heard talk?—A. Yes, sir; the next day.
- Q. Did you hear it talked of any other time among the men?—A. No, sir.
- Q. Never talked it at all?—A. No, sir. This man, George Miller, he was a citizen.

By Senator FORAKER:

- Q. He was a citizen teamster, was he not?—A. Yes, sir.
- Q. And a half Mexican?—A. Yes, sir.

By Senator WARNER:

- Q. I suppose that did not hurt him any, that he was a half Mexican?—A. No, sir.

Senator FORAKER. That identifies him as the same man that was testified about by somebody else; that is all.

By Senator WARNER:

- Q. You knew the next day, or within a day or two, that it was charged that the soldiers had done the shooting up of the town of

Brownsville, didn't you?—A. Yes, sir; I used to hear people talking about it.

Q. You heard your friends talk about it that way in the town?—A. Yes, sir. I did not hear my friends say anything, because I did not go out that day. I never went out until after the soldiers left Fort Brown; but I could see it in the paper the next evening, about 4 o'clock, in the Daily Herald, of Brownsville, Tex.

Q. What is that you said?—A. I said I never heard any of my friends talk about this shooting, because I never went out in the town until after the soldiers had left Fort Brown—the Twenty-Fifth Infantry—but I could see it the next morning in the daily papers.

Q. Why? Didn't you go out in town?—A. No, sir.

Q. Why?—A. Because I had all my work in the post, and I had to have a pass to go in town; so I thought I had better stay inside.

Q. You did not go out in town at all?—A. No, sir.

Q. You did not talk with the soldiers?—A. No, sir.

Q. Did you ever tell any soldier or anybody that you heard these bullets whistling?—A. No, sir.

Q. You had to have a pass to go out?—A. Yes, sir.

By the CHAIRMAN :

Q. Was that usual?—A. No, sir; only at the time that they kept the soldiers in there was a kind of quarantine there.

Q. You were not a soldier; you were a civilian?—A. No, sir; but I had to have a pass to go in town just the same.

Q. You had been there at the post at Fort Brown as scavenger how long?—A. Six years.

Q. And you never told anybody you heard these shots being fired, and fired in the direction of the administration building?—A. The only person I told was Major Penrose and Major Blocksom, when they went to investigate at Fort Brown, and before the grand jury in town.

Q. You told it there?—A. Yes, sir.

Q. Did you look to see if you could find any evidence of any bullet marks?—A. No, sir.

Q. Never looked at all?—A. No, sir.

Q. When you got down in front of the administration building you stopped your mule?—A. Yes, sir.

Q. Hitched him there?—A. Yes, sir; I tied the wheels.

Q. And you went back through the administration building?—A. Yes, sir.

Q. Got the ash can there and the sink?—A. The sink.

Q. Just one sink?—A. Only one sink.

Q. And you came back carrying it through the administration building?—A. Yes, sir.

Q. Back to your cart?—A. Yes, sir.

Q. Put it in your cart?—A. Yes, sir.

Q. And the firing was still going on?—A. Yes, sir; all the time since I left that corner.

Q. Still going on; and when you came back with this sink then it was you were so frightened that you got behind the tree?—A. I went in and set the sink back and came back and stood behind the tree.

Q. After you had emptied the sink into the cart?—A. Yes, sir.

Q. You took the sink back in the rear of the administration building?—A. Yes, sir.

Q. And came back again, and the firing was still going on?—A. Yes, sir. That was the time I stood behind the tree.

Q. Why did you stand behind the tree?—A. Because I was afraid I might get hit.

Q. You were frightened, then?—A. I was not frightened, but I thought I was safe right behind the tree.

Q. Safe right behind the tree?—A. Yes, sir.

Q. But the other time you walked the mule, as you say, around there?—A. Yes, sir.

By Senator FORAKER:

Q. Is the ground round about there level?—A. Yes, sir; it is pretty level.

Q. That is, is the ground where the barracks stand level with the ground where the officers' quarters are?—A. Yes, sir.

Q. That is across the parade ground?—A. Yes, sir.

Q. Is it level out toward the guardhouse?—A. Yes, sir.

Q. And back toward the corral?—A. Yes, sir.

Q. Is all that on a level with the town at Elizabeth and Washington and Adams streets along there?—A. Yes, sir.

Q. That is all level?—A. All level; yes, sir; just the same.

Q. The Rio Grande River—is not that lower than the ground that constitutes the reservation?—A. I think the reservation is a little bit higher at the river bank than it is in town.

Q. How much higher is the ground there at that point than the level of the river? The river must have banks of some kind, I suppose.—A. Yes, sir; you mean how high is the river bank?

Q. Has the river banks there or not?—A. Yes, sir.

Q. How high are they above the water—how high above the water does the fort stand?—A. About 8 or 10 feet.

Q. Eight or 10 feet?—A. Yes, sir.

Q. Then, if the river should rise—A. When the river rises it is only 2 feet to the top of the river bank.

Q. Did you say 2 feet or a few?—A. Two.

By Senator FOSTER:

Q. How many houses are there on the west side of the Cowen alley, or Yturria alley, between Thirteenth and Fourteenth?—A. Between Thirteenth—

Q. Between Thirteenth and Fourteenth on the west side of the alley?—A. On the west side of the alley?

Q. Yes. The west side of the alley is the side toward the Rio Grande?—A. Yes, sir. I think it must be five buildings there.

Q. Those are the buildings that you described to Senator Foraker in your examination a few minutes ago?—A. Yes, sir.

Q. You described the character of those buildings and the timber that was in the buildings?—A. Yes, sir.

Q. Have you been on the inside of any of those buildings?—A. Only inside of the telegraph office and Mr. Rendall's.

Q. If you have never been on the inside of those buildings, you can not tell with what wood they are ceiled or anything of that sort, can

you?—A. Well, yes; if any man is a carpenter, he can tell whether they are ceiled or plastered.

Q. If you have never been inside of those buildings, how can you tell whether they are ceiled or plastered or what kind of lumber they are ceiled with or what kind of plaster?—A. I can see from the outside.

Q. You can tell, then, from looking at a building on the outside whether it is ceiled or plastered on the inside?—A. No, sir; I would have to go in to see.

Q. You have never been in one of those buildings, have you?—A. I have been in Mr. Rendall's and I have been in Mr. Garza's.

Q. I thought you said just now you had never been inside?—A. I said I was not acquainted with those buildings inside, only those two or three buildings.

Q. Are you willing to swear as to the kind of ceiling with which they are ceiled, or the lumber in the ceiling?—A. No, sir; I could not tell you the width of the ceiling, no, sir.

Q. Nor the lumber?—A. Because they have two by six and two by four and sometimes two by eight.

Q. So you don't know anything about that?—A. No, sir.

Q. You do not know anything about the dimensions of the lumber that went to make up the ceiling?—A. No, sir.

By Senator OVERMAN:

Q. Do you know where Mr. Tate lived?—A. Yes, sir; he lived next to Mr. Starck.

Q. Show me where he lived. He is the man that had the trouble with a soldier, isn't he?—A. I think so. I heard it.

Q. Tell me where he lived?—A. He used to live right here [indicating].

Q. The Starck house is No. 10?

The CHAIRMAN. No. 10 is Mr. Porter's house.

By Senator OVERMAN:

Q. Is the Starck house marked on here?—A. No. 6 on the map.

Q. Where does he live?—A. He lives next to Starck.

Q. Toward that side or this side?—A. Toward this side.

Q. Right next to the Starck house?—A. Yes, sir.

By Senator BULKELEY:

Q. Did they have any guard on the gate?—A. No, sir. A guard in the reservation?

Q. Yes; at the gate, going out into Elizabeth street. There is an iron gate there, isn't there?—A. Yes, sir.

Q. They had no guard there?—A. No guard there.

Q. No guard there and no noncommissioned officer or anything?—A. No, sir; not until after the shooting. After the shooting there used to be a guard there—about 12 men every night.

Q. Before the shooting was it customary to have a guard there at night or any time?—A. No, sir.

Q. So where did you have to show your pass to anybody when you went out?

Senator WARNER. He did not have to have a pass until after the shooting.

Senator BULKELEY. That is so; he did not; but there was no guard at all ordinarily on the gate?

A. No, sir; not that night.

Q. Or at any time prior to the shooting?—A. No, sir; only the sentry that used to walk around the barracks. That was all the guard there was every night.

By Senator FORAKER:

Q. All employees about the fort—the citizens as well as the soldiers—were kept in after the firing, were they not, except as they were allowed to go out on pass?—A. Yes, sir.

Q. You were subject only to the same orders as the rest of them?—A. Yes, sir.

By the CHAIRMAN:

Q. About how many employees were there besides yourself?—A. I will have to call their names—there was about six.

By Senator FORAKER:

Q. The names have all been given, I think. They were at the corral?—A. Yes, sir.

Q. Among them were the two Miller brothers. Now, that is all, Mr. Tamayo. I will give you those dimensions, and you can be excused.

The CHAIRMAN. Now, gentlemen of the committee, I have a letter from the Secretary of War which I will read at this time to see what you want to do with it. It is dated Saturday, but has just come up by messenger. I take it it was probably written late in the day on Saturday. The letter and the accompanying reports are as follows:

WAR DEPARTMENT,
Washington, March 16, 1907.

MY DEAR SENATOR: I send you herewith, by the hand of Lieutenant Hawkins, of the Ordnance Department, stationed at the Springfield Arsenal, the two reports with respect to the cartridge shells, of which I have already written you. The first report shows—

That the shells which, by the Purdy testimony, were picked up in the streets and alleys at the places where the shooting was done in Brownsville early the next morning after the shooting, numbering 33 discharged shells (ammunition for the Springfield rifle, model of 1903), were examined by Lieutenant Hawkins, of the Ordnance Department, and Mr. G. A. Spooner, expert inspector of gauges used in the manufacture of muskets at the Springfield Arsenal, under glass and microscope.

That all the rifles in the possession of the three companies of the Twenty-fifth Infantry on the 13th of August were in the hands of these experts at the Springfield Arsenal, having been forwarded there under orders from this Department; and that two regular ball cartridges were discharged from each rifle, and the discharged shells from each examined.

That the marks on eleven of the shells picked up at Brownsville correspond exactly with the marks on the cartridges discharged by them from one of the guns of B Company.

That the marks on eleven of the shells correspond exactly with the marks on the cartridges discharged by them from another of B Company's guns.

That the marks on eight more of the shells correspond exactly with the marks on the cartridges discharged by them from a third gun of B Company.

That the marks upon the remaining three of the shells correspond with the marks on the cartridges discharged by them from a fourth gun of B Company, but that in this fourth case, due probably to the fact that the cartridges had failed of discharge in another rifle, they bore double marks, and so made the identification with the fourth rifle shells less certain and complete than in the first three cases.

Lieutenant Hawkins and Inspector Spooner state that their examinations prove beyond reasonable doubt that the three groups of shells, 11, 11, and 8, were discharged

from three specifically numbered guns of B Company, and that in all probability the fourth group of three shells was discharged from another numbered gun of the same company.

From an official list of Companies B, C, and D, and the numbers of the guns assigned to them on August 13, 1906, it appears that two of the guns, one from which eight of these shells were discharged and one from which eleven of the shells were discharged, were not assigned to enlisted men, but were guns in the storehouse of Company B and in charge of the quartermaster-sergeant of B Company; that the third gun, from which eleven of the shells were discharged, was a gun assigned to Thomas Taylor, an enlisted man and private of B Company, and that the fourth gun, from which three of the shells were discharged, was a gun assigned to Joseph L. Wilson, an enlisted man and private of B Company. Of course the very reasonable hypothesis that the men who did the shooting used such guns as they could get on the night of August 13 and would not necessarily have used the guns officially assigned to them makes this evidence weighty in showing rather that some members of the battalion did it than that the individuals above named were guilty.

At the time this examination was made the Springfield Arsenal did not have the guns of the Twenty-sixth Infantry, which had preceded the Twenty-fifth Infantry at Brownsville, but in due course they had been ordered to the Springfield Arsenal, and it seemed to me that the examination would not be complete unless the shells discharged from the guns of the Twenty-sixth Infantry were compared with the shells under examination. The final report of Lieutenant Hawkins shows that the cartridge shells discharged in the guns of the Twenty-sixth Infantry had no marks which identified them with the shells under examination.

Lieutenant Hawkins has also examined the question as to the marks of the grooves and lands which would be made in the bullets discharged from the guns of the Twenty-fifth Infantry, and he has samples of two bullets discharged into sawdust or water from each gun of the three companies of the Twenty-fifth Infantry. The bullets discharged by Lieutenant Hawkins from all of the rifles of the Twenty-fifth Infantry have the impression of the lands of the rifling quite as plainly marked as the bullets taken from the Brownsville houses.

Lieutenant Hawkins has advised me that in his judgment a reasonable time for cleaning a gun is from three to five minutes, as shown by the experience at the Springfield Arsenal, and I have directed the foreman of the gun-cleaning squad at the Springfield Arsenal to be present at the disposition of the committee.

Lieutenant Hawkins has also made some examination as to the bullets sent you by me and shown by accompanying affidavits to have been picked out of houses in Brownsville after the shooting of August 13, 1906. He has not had, however, the three bullets forwarded with and identified by the Purdy testimony.

Lieutenant Hawkins will deliver to you the two reports as to the cartridge shells; will return to the committee the thirty-three shells and six ball cartridges and the bullets for which the committee holds my receipt. He will also, if desired, show the committee the bullets discharged from the rifles of the Twenty-fifth Infantry by number. He is present for examination on the subject-matter of the reports and the investigations which he has made. Inspector Spooner accompanies Lieutenant Hawkins for examination as a witness. I am advised by these gentlemen that the results here stated were reached by both of them after a full examination and verification by each.

Very sincerely, yours,

WM. H. TAFT.

HON. FRANCIS E. WARREN,
Chairman Committee on Military Affairs, United States Senate.

[Indorsement.]

WAR DEPARTMENT, *March 16, 1907.*

Secretary of War to Hon. F. E. Warren. Forwards by Lieut. W. J. Hawkins two reports with respect to the cartridge shells which by the Purdy testimony in the Brownsville affair were picked up in the streets and alleys the morning after the shooting up of Brownsville, numbering 33 discharged shells (ammunition for the Springfield rifle, model 1903).

SAN ANTONIO, TEX., *March 3, 1907.*

MILITARY SECRETARY, U. S. ARMY, *Washington, D. C.:*

Reference telegram 27th ultimo, 2d instant; rod bayonet rifles of Companies K, L, M, Twenty-sixth Infantry, shipped by Wells Fargo Express Company to Springfield

Armory yesterday by chief quartermaster department of Texas. Delay in answering was due to preparation and completion of shipment.

BROWN, Colonel, Commanding.

[Second indorsement.]

OFFICE OF THE CHIEF OF ORDNANCE,
Washington, March 6, 1907.

Respectfully referred to the commanding officer, Springfield Armory, for his information.

By order of the Chief of Ordnance.

LAWSON M. FULLER,
Major, Ordnance Department, U. S. Army.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ORDNANCE,
Washington, March 5, 1907.

The COMMANDING OFFICER, Springfield Armory.

SIR: There are forwarded you by express, in connection with O. O. file 36743-14, the cartridges and fired shells enumerated in O. O. file 30803-44, dated February 8, 1907. These cartridges and shells should be carefully preserved, and as soon as the rifles which formerly were in the hands of the Twenty-sixth Infantry shall have been received the necessary steps will be taken to determine, if possible, whether any of these shells could have been fired from the rifles in question. The work should be carried on as was done in the case of the rifles from the Twenty-fifth Infantry. As in that case, it will be considered as strictly confidential, and an early report should be rendered to this office.

Very respectfully,

A. H. RUSSELL,
Lieutenant-Colonel, Ordnance Department, U. S. Army,
Acting Chief of Ordnance.

One box containing cartridges and shells, marked "Groups I, II, III, IV, and V," forwarded by express.

SPRINGFIELD ARMORY, MASS., March —, 1907.

The COMMANDING OFFICER, Springfield Armory, Mass.

SIR: I. In compliance with your verbal instructions and with the provisions of O. O., 30803-60, I have the honor to submit the following report of the results obtained in endeavoring to correlate the cartridge cases of Groups I, II, III, and IV (see inclosure 1, O. O., 30803-44), with rifles received from companies K, L, and M, Twenty-sixth Infantry.

II. The above-mentioned rifles were received at Springfield Armory on the 11th instant, and immediately upon their receipt two rounds of Frankford Arsenal non-reloaded model of 1903 ammunition were fired in each rifle for the purpose of taking impressions from their chambers, bolts, strikers, etc. These cartridge cases were marked with reference numbers, as per the following lists:

RIFLES FROM COMPANY K, TWENTY-SIXTH INFANTRY.

Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.
400	3265	412	1615	424	1223	436	3067	448	3614	460	3855
401	2748	413	4234	425	3032	437	3346	449	3204	461	2403
402	2828	414	2959	426	3172	438	3030	450	2467	462	3304
403	2976	415	3417	427	3674	439	2881	451	3414	463	3391
404	2930	416	3862	428	3795	440	3156	452	3798	464	2991
405	1845	417	3229	429	3696	441	2666	453	3357	465	479
406	2989	418	3155	430	3283	442	2833	454	3078	466	3861
407	3591	419	3298	431	3406	443	2816	455	3592	467	2702
408	2247	420	3618	432	3160	444	2837	456	3335	468	2987
409	3443	421	3163	433	3070	445	2063	457	3437	469	2731
410	3691	422	3289	434	2985	446	3933	458	3409		
411	3726	423	3634	435	3023	447	2751	459	3822		

RIFLES FROM COMPANY L, TWENTY-SIXTH INFANTRY.

Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.
500	3634	512	3643	524	2753	536	3831	548	2439	560	2428
501	3758	513	3530	525	3369	537	3816	549	3057	561	2832
502	2250	514	1616	526	139	538	3581	550	2273	562	1653
503	2433	515	3794	527	3850	539	3348	551	2373	563	2977
504	2849	516	3825	528	3829	540	3762	552	2803	564	3813
505	2801	517	3764	529	3578	541	474	553	3577	565	2756
506	3931	518	* 3278	530	3184	542	3778	554	3848	566	2440
507	3557	519	2750	531	2499	543	2707	555	2807	567	2673
508	3331	520	3866	532	2798	544	3201	556	2662	568	3863
509	1673	521	3972	533	360	545	3768	557	4095	569	2319
510	3864	522	667	534	3781	546	3793	558	3498		
511	4097	523	3646	535	3584	547	2804	559	3838		

RIFLES FROM COMPANY M, TWENTY-SIXTH INFANTRY.

Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.
601	3858	613	4277	625	4022	637	3505	649	3651	661	3394
602	3785	614	1814	626	3342	638	3763	650	3907	662	3993
603	4172	615	4096	627	3130	639	2327	651	2592	663	2464
604	4003	616	3698	628	180	640	3744	652	4010	664	4182
605	3820	617	3786	629	212	641	3792	653	3290	665	3818
606	475	618	3732	630	1608	642	3986	654	4133	666	2329
607	4110	619	2562	631	2809	643	3755	655	3025	667	3441
608	3776	620	3774	632	3675	644	3037	656	1728	668	* 4249
609	3756	621	3343	633	4102	645	2500	657	3914	669	2778
610	3802	622	3753	634	2839	646	3523	658	3683	670	* 2694
611	3859	623	3814	635	3782	647	3300	659	1762		
612	3497	624	3966	636	3996	648	2808	660	3639		

NOTE 1.—Rifles whose serial numbers are starred were fired, using strikers from rifle No. 3818, reference No. 665, as the points of their strikers were broken off too short to strike a primer.

NOTE 2.—All of the above serial numbers were compared with the numbers on the retained copies of the shipping cards and found in all cases to agree.

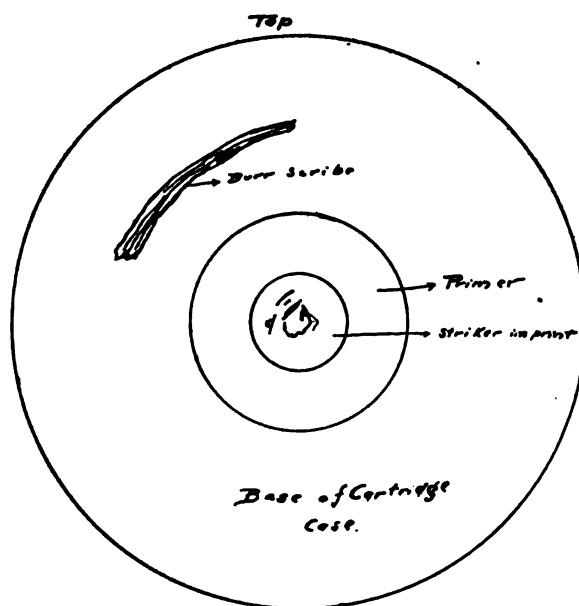
III. The cartridge cases referred to above in paragraph I were arranged and oriented in pasteboard, model of 1898, ammunition boxes for convenience in examination. Then the cartridge cases of Groups I, II, III, and IV were similarly disposed, oriented, and compared (one group at a time) with all of the cartridge cases from the rifles of Companies K, L, and M, Twenty-sixth Infantry. About thirty-two hours were spent in making four complete comparisons, and as a result *no duplicates of the cartridge cases of Groups I, II, III, or IV were found among the cartridge cases from the rifles of Companies K, L, and M, Twenty-sixth Infantry.*

IV. The above examination was made in the same manner as described in inclosure 1, O. O., 30803-44, and, as before, the undersigned was assisted throughout by Mr. G. A. Spooner, inspector of gauges at this armory.

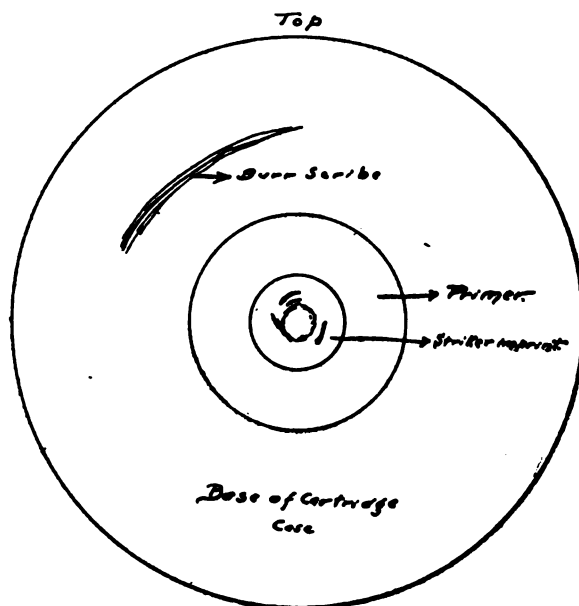
Very respectfully,

WILFORD J. HAWKINS,
First Lieutenant, Ordnance Department.

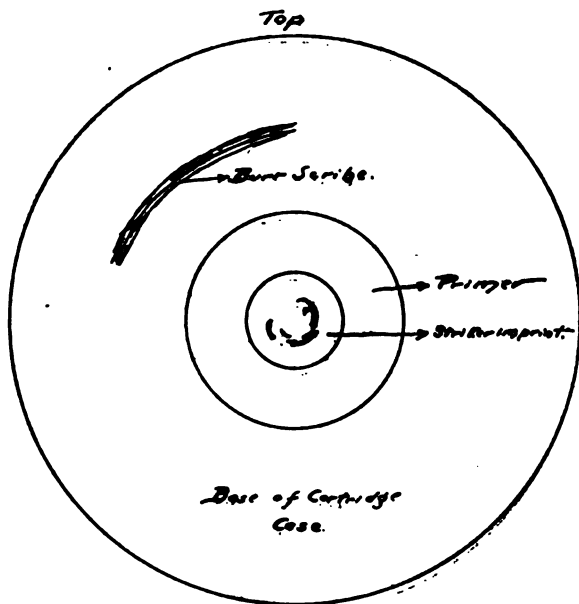
GROUP I.



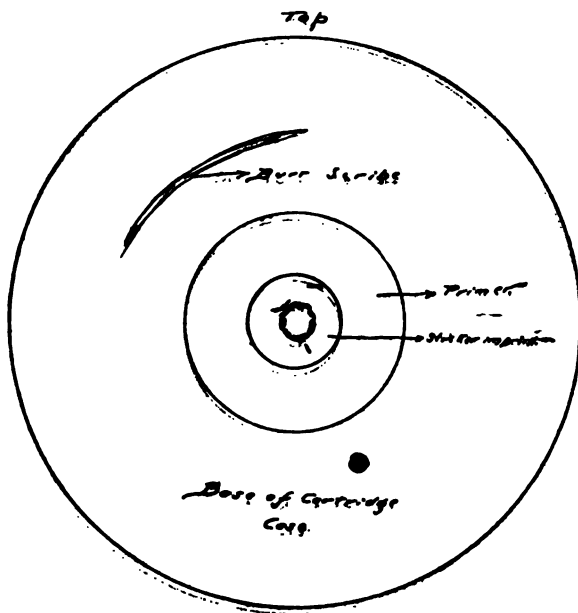
GROUP II.



GROUP III.



GROUP IV.



SPRINGFIELD ARMORY, MASS., February 16, 1907.

The COMMANDING OFFICER, Springfield Armory, Mass.

SIR: I, In compliance with your verbal instructions and with instructions given in O. O. 30803-44, I have the honor to submit the following report of the results obtained in correlating the cartridges and cartridge cases described in O. O. 30803-44, with the model of 1903 rod-bayonet rifles recently turned in from Companies B, C, and D of the Twenty-fifth Regiment of Infantry.

II. The rifles above referred to, together with the rifles from Company A of the Twenty-fifth Infantry, arrived at Springfield Armory on the 12th instant. Immediately upon receipt of these rifles the chests of each company were separately unpacked and two rounds of F. A. 1903—2,200 foot-seconds ammunition were fired in each rifle. Each of these cartridges was marked on its neck with a reference number, which numbers were tabulated for cross reference with the serial numbers of the rifles. All of these numbers are tabulated below by companies, as received at Springfield Armory.

RIFLES FROM COMPANY B, TWENTY-FIFTH INFANTRY.

Reference No.	Serial No.	Remarks as to condition of rifle when received at Springfield Armory.	Reference No.	Serial No.	Remarks as to condition of rifles when received at Springfield Armory.
70	42452		105	41796	Bore very slightly rusted.
71	41374		106	46536	
72	43232		107	45698	
73	40910		108	49082	
74	35488		109	45997	Do.
75	46544	Foul bore; had been fired and not cleaned.	110	41501	
76	45216		111	45285	
77	49450		112	44699	
78	45186	Do.	113	43166	
79	48790	Do.	114	46296	Very slight rust in middle of bore.
80	45617	Do.	115	46321	
81	45683	Foul bore; had been fired and not fully cleaned.	116	45226	
82	43733		117	46029	
83	43464		118	42036	
84	41971		119	46615	
85	41911	Slight rust in bore near chamber.	120	45131	
86	41183		121	39919	
87	45327		122	42788	
88	45321	Bore slightly rusty.	123	45927	
89	43721		124	41390	
90	45700		125	41195	
91	11747		126	46524	
92	41591		127	41156	Bore very slightly rusted.
93	45516		128	43561	Do.
94	43783		129	41493	
95	41019		130	46016	
96	45537		131	45315	
97	45448		132	46502	
98	41331		133	43374	
99	13092		134	46462	
100	39714		135	42288	
101	39623		136	41968	Foul bore; had been fired and not cleaned.
102	45446		137	38899	
103	43167		138	41447	
104	46209	Bore very slightly rusted.	139	44652	

NOTE.—All of the above serial numbers for Company B were checked with the retained copy of the shipping card and found to agree.

RIFLES FROM COMPANY C, TWENTY-FIFTH INFANTRY.

Reference No.	Serial No.	Remarks as to condition of rifles when received at Springfield Armory.	Reference No.	Serial No.	Remarks as to condition of rifles when received at Springfield Armory.
140	54033	Foul bore; had been fired and not cleaned.	173	51951	
141	54340		174	48316	
142	49651	Bore slightly rusty.	175	47997	
143	53127	Bore slightly rusty at middle.	176	55258	
144	42566		177	53929	Foul bore; had been fired and not cleaned.
145	52210	Foul bore; had been fired and not cleaned.	178	48592	New.
146	34972		179	47661	New; extractor broken at claw.
147	53047		180	41598	Hand guard hacked near upper band.
148	40850		181	52293	Stock splintered up and hacked.
149	40892		182	49026	Rear sight leaf knocked off its base as by a dull ax or hatchet.
150	46740	Do.			
151	47911				
152	51297				
153	49790				
154	50575	Bore rusty and dirty.	183	49042	
155	53134	Slight rust in grooves of bore near chamber.	184	49287	
156	47527	Foul bore; had been fired and not cleaned.	185	49636	
157	42956	Do.	186	52697	
158	47353		187	49437	
159	55157	Hand guard splintered and rear sight leaf broken from base, as with a dull ax or hatchet.	188	54835	Foul bore, had been fired and partially cleaned.
			189	50921	Hand guard badly nicked.
			190	52888	
160	41847		191	53033	Hand guard nicked.
161	47747		192	49300	Hand guard slightly nicked.
162	52004	Bore badly rust pitted and slightly rusty.	193	54236	
163	47790		194	53292	
164	52870		195	52195	Bore slightly rusty.
165	54086		196	52457	
166	47576	Bore rusty near chamber.	197	49652	
167	51814		198	53531	
168	47751		199	53029	Bore rusty at muzzle.
169	53333	Hand guard splintered and rear sight leaf broken from base, as with a dull ax or hatchet.	200	51898	
			201	47906	
170	53172		202	47561	
171	51722		203	53278	
172	52124		204	37487	
			205	54806	
			206	52991	
			207	52476	
			208	49731	
			209	44175	Hand guard nicked.

NOTE.—All of the above serial numbers for the rifles of Company C were checked by the retained copy of the shipping card and found to agree.

RIFLES FROM COMPANY D, TWENTY-FIFTH INFANTRY.

Reference No.	Serial No.	Remarks as to condition of rifle when received at Springfield Armory.	Reference No.	Serial No.	Remarks as to condition of rifles when received at Springfield Armory.
210	53370	Bore slightly rusted.	228	42495	Bore slightly rusted.
211	55183		229	42347	
212	42856		230	50977	
213	51745		231	42624	
214	43058	Bore rusty.	232	42504	
215	41755	Foul bore; had been fired and not cleaned.	233	42362	
216	47530	Do.	234	38126	Foul bore; had been fired and not cleaned. Cut-off missing.
217	51762				
218	54795		235	42602	Bore slightly rusty at middle
219	51556	Cut-off missing.	236	51407	
220	42884		237	53310	
221	52989		238	54054	
222	42301		239	43043	
223	49549		240	53933	
224	41759		241	53281	
225	42666		242	41551	
226	50321		243	42316	
227	53063		244	42665	Bore slightly rusty.

RIFLES FROM COMPANY D, TWENTY-FIFTH INFANTRY—Continued.

Reference No.	Serial No.	Remarks as to condition of rifle when received at Springfield Armory.	Reference No.	Serial No.	Remarks as to condition of rifles when received at Springfield Armory.
245	37710		262	49643	Foul bore; had been fired and never cleaned.
246	43224		263	52755	
247	52297		264	42105	
248	43013		265	54415	
249	53781		266	42843	Slight rust in grooves of rifling.
250	49784		267	42216	New.
251	41555		268	53798	Foul bore; had been fired and not cleaned.
252	42049		269	49946	New.
253	48198		270	52260	
254	41750		271	54789	
255	41762		272	42547	
256	43072	Foul bore; had been fired and not cleaned; rifle almost new and unused.	273	41024	
257	52405		274	50391	
258	41431		275	52856	
259	52169	Bore bulged near muzzle; paper wrapped around hand guard, on which was written the words "Hands off."	276	41958	
260	41835	Same as for 259 except for bulge in bore.	277	42695	Foul bore; had been fired and not cleaned.
261	38857	Do.	278	42465	
			279	49789	

NOTE.—All of the above serial numbers for the rifles of Company D were compared with the numbers on the retained copies of shipping cards and found to agree with one exception, i. e., where the shipping card calls for serial No. 54405 the rifle corresponding bears the number 52495. Rifle 52495 was issued to Company I, Twenty-fifth Infantry. A search through the serial numbers of the A Company rifles, Twenty-fifth Infantry, failed to reveal the whereabouts of 54405.

RIFLES FROM COMPANY A, TWENTY-FIFTH INFANTRY.

Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.	Reference No.	Serial No.
1	43887	13	41175	25	35490	37	43589	49	46561
2	38757	14	44581	26	49635	38	38945	50	40007
3	48227	15	15914	27	40002	39	38070	51	40292
4	44248	16	46422	28	48151	40	46154	52	47204
5	40680	17	38824	29	46312	41	44781	53	47311
6	43279	18	39480	30	46279	42	46203	54	47496
7	37693	19	39604	31	43090	43	43758	55	42400
8	40655	20	45916	32	39763	44	46901	56	44586
9	41162	21	43479	33	39675	45	46616	57	41440
10	45889	22	41587	34	41409	46	46489	58	41141
11	39476	23	46570	35	40489	47	41114	59	39604
12	38922	24	40294	36	41678	48	39072	60	47333

NOTE.—All of the serial numbers of the above rifles from Company A were checked by the retained copy of the shipping cards and all of the numbers were found to agree. One rifle (45563), however, was missing from the shipment from Company A. This rifle was not called for on the invoice and therefore was not lost in transit.

III. The cartridges and cartridge cases described in O. O. 30803-44 were received at Springfield Armory on the 15th instant. For convenience in the examination of these cartridges each cartridge was marked on its neck with a reference number, as per the following list:

Reference No.	Markings on cases when received at Springfield Armory.
In one package:	
301.....	F. A., 1, 06.
302.....	Do.
303.....	Do.
In one package:	
304.....	F. A., 1, 06. Marked with ink "L."
305.....	F. A., 1, 06. Marked with ink "B" (not fired).
306.....	F. A., 1, 06. Marked with ink "I."
307.....	F. A., 1, 06.

Reference No.	Markings on cases when received at Springfield Armory.
In one package:	
308	U. M. C., 12, 05. Marked with ink "D."
309	U. M. C., 12, 05. Marked with ink "E."
310	U. M. C., 12, 05. Marked with ink "K."
311	U. M. C., 12, 05. Marked with ink "C."
312	U. M. C., 12, 05. Marked with ink "G."
313	U. M. C., 12, 05. Letter "S" scratched on case (not fired).
314	U. M. C., 12, 05. Marked with ink "A" (not fired).
315	U. M. C., 12, 05. Marked with ink "H" (not fired).
316 to 339, both inclusive, in one package:	
316	U. M. C., 12, 05. Not ink marked.
317	U. M. C., 12, 05. Not ink marked; body dented.
318	U. M. C., 12, 05. Not ink marked.
319	Do.
320	Do.
321	Do.
322	Do.
323	Do.
324	Do.
325	Do.
326	Do.
327	Do.
328	Do.
329	Do.
330	Do.
331	Do.
332	Do.
333	Do.
334	Do.
335	Do.
336	Do.
337	Do.
338	U. M. C., 12, 05. Not ink marked; not fired.
339	U. M. C., 12, 05. Not ink marked; not fired; primer dented.

IV. The above cartridges and cartridge cases were all carefully examined under a powerful microscope and also under jeweler's eyeglasses of varying powers. This examination showed that some of these cartridges had been fired from the same rifles, viz: . . .

† Reference No.

309	GROUP I.—Fired in rifle No. 41019, Company B, Twenty-fifth Infantry. Reference number of rifle and cartridge case from same, No. 95.
312	
316	
321	
324	
326	
329	
331	
334	
336	
337	
301?	GROUP II.—Fired in rifle No. 45683, Company B, Twenty-fifth Infantry. Reference number of rifle and cartridge case from same, No. 81.
302?	
307?	
311	
317	
319	
320	
330	
308	
310	
318	GROUP III.—Fired in rifle No. 42288, Company B, Twenty-fifth Infantry. Reference number of rifle and cartridge case from same, No. 135.
322	
323	
325	
327	
328	
332	
333	
335	

- 303? } GROUP IV.—Probably fired in rifle No. 46524, Company B, Twenty-fifth Infan-
 304 } try. Reference number of rifle and cartridge case from same, No. 126.
 306 }
 305 }
 313 } GROUP V.—These cartridges were *not fired*, and have insufficient gun marks to
 314 } identify them with any particular rifle. Number 339 has a slight striker
 315 } impact, but this imprint is so slight (due to the depressed primer) that it is of
 338 } no use for purposes of identification.
 339 }

V. The markings on cartridge cases of Group I, by which they were grouped and identified with rifle No. 41019, are as follows:

- (a) Large flat tit mark in bottom of striker imprint, of peculiar pentagonal shape.
- (b) Two similar cuts in upper^a right-hand quadrant of striker imprint.
- (c) Two circumferential marks in upper left-hand quadrant.
- (d) Scribe mark on base of cartridge case from ejector cut burr in bolthead. This scribe mark is deep and of well defined shape.
- (e) Shape of upper and lower corners of first shoulder of cartridge case.
- (f) Reamer markings on first shoulder of cartridge case.
- (g) Slight circumferential marks on left wall.

VI. The markings on the cartridge cases of Group II, by which they were grouped and identified with rifle No. 45683, are as follows:

- (a) Small flat tit mark in bottom of striker imprint, of nearly circular shape.
- (b) One rather marked vertical cut at left^b of tit mark in striker imprint.
- (c) Two circumferential marks in upper left-hand quadrant.
- (d) Shape of rear corner of first shoulder.
- (e) Ragged reaming on first shoulder.
- (f) One circumferential mark in lower right-hand quadrant of striker imprint.

VII. The markings on the cartridge cases of Group III by which they were grouped and identified with rifle No. 42288 are as follows:

- (a) Hemispherical bottom of striker imprint in primer.
- (b) A ragged circular ridge around right wall of imprint of striker point.
- (c) A V-shaped mark in upper right-hand quadrant of striker imprint.
- (d) Draw of striker to the right.
- (e) Scribe mark on base of cartridge case from ejector cut burr.
- (f) Shape of front and rear corners of first shoulder.
- (g) Annular pocket at rear corner of first shoulder.
- (h) Circumferential mark on lower left-hand quadrant of striker imprint.
- (i) Slight circumferential mark in lower right-hand quadrant of striker imprint.

VIII. The markings on the cartridge cases of Group IV, by which they were grouped and identified with rifle No. 41390, are as follows:

- (a) Flat bottomed, indented tit mark of octagonal shape in bottom of striker imprint. Angular mark in upper left-hand quadrant. Diagonal mark near top of wall of upper right-hand quadrant.
- (b) Draw of striker toward the lower left-hand quadrant. Radial mark in lower right-hand quadrant of striker imprint.
- (c) Scribe mark on base of cartridge case from ejector cut burr on head of bolt.
- (d) Shape of front and rear corners of first shoulder of cartridge case.
- (e) Annular welt mark around rear corner of first shoulder, due to reaming.
- (f) Fine twin lines on rear corner of first shoulder.

IX. In the examination of the above cartridge cases it was noted that some cases had been inserted into a service rifle more than once, viz:

Group I.....	309, 329, 334
Group III.....	308, 310, 327
Group IV.....	303, 304, 306

This condition renders the orientation of the cartridge case with respect to its position in the chamber when fired difficult unless extractor claw marks are evident. Also this condition leaves it open to doubt whether striker imprint in the primer came from the rifle in which it was fired or from some other rifle into which the cartridge case was subsequently inserted. In Group IV there are evidences in the striker imprint of more than one striker blow and hence little weight can be given to the identification of primer imprint markings, and the first shoulder alone can be relied upon.

X. The method pursued in this work of identification was as follows:

- (a) Two rounds fired from each rifle received from Companies A, B, C, and D and

^aReferring to the location of the cartridge when fired in the rifle.

^b Referring to location of cartridge case in rifle when fired.

the cartridge cases from these rounds scratched on the neck with a reference number as described above.

(b) Each pair of these cartridge cases was put into contiguous pockets in pasteboard packing boxes for model of 1898 ammunition. These boxes were marked with the company letter and with the same reference numbers as appeared on the cartridge cases.

(c) The cartridge cases were then systematically oriented in these boxes with respect to the position of the cartridge in the chamber of the rifle when fired. This can readily be accomplished by reference to the extractor claw marks on the rim of the cartridge case, or by reference to the scribe mark on the base of the cartridge case from the burr from the ejector cut through the left-bolt lug.

(d) The 39 cartridge cases received from the ordnance office were then marked on the necks with reference numbers, as noted above.

(e) These 39 cartridge cases were then systematically compared to ascertain if more than one had been fired from any one rifle. This led to the groupings described above.

(f) Each of the groups were segregated into a separate pasteboard 1898 ammunition box and oriented in the same manner as the cartridge cases described in (a) and (b) of this paragraph.

(g) One box containing a group of the 39 cartridge cases was then held in the hands, in turn with each of the other boxes containing cartridge cases fired at Springfield Armory from the rifles of Companies A, B, C, and D, Twenty-fifth Infantry. In this way each group was compared with each pair of cartridge cases fired at Springfield Armory. After the corresponding cartridge case had been found the comparison did not cease but continued throughout all of the pairs.

(h) Having found the corresponding cartridge case from the above-noted companies, a critical comparison between it and the group to which it corresponded was made as to all markings on primers, bases, bodies, first shoulders, and necks.

(i) All of the above work was done with jewelers' eyeglasses of 2, 2½, and 4 inch focii. The aid of these glasses was supplemented by the use of a powerful Bausch & Lomb microscope.

(j) The entire work of comparison was done by the undersigned and checked by Mr. G. A. Spooner, inspector of gauges at the hill shops of the Springfield Armory. All conclusions reached were unanimous as regards the two observers just mentioned.

XI. The diameters of the bodies of the cartridge cases at first shoulder and of the necks at the first shoulders of each of the groups are tabulated below. The corresponding diameters of the corresponding pair are underscored. The prescribed dimensions of these diameters, as per the drawing of the barrel and chamber of the model of 1903 rifle (class 42, division 2, drawing 17), are ".442 and ".3425, respectively.

GROUP I.

Diameter of body at first shoulder.	Diameter of neck at first shoulder.
"	"
.443	.3432
.443	.3425
.4425	.3416
.4438	.3450
.443	.3420
.4432	.3430
.443	.3423
.443	.3420
.443	.3415
.443	.3415
.4435	.3422
[Corresponding pair—Ref- erence No. 95.]	
"	"
.443	.3415
.443	.3415

NOTE.—Slight differences in these dimensions are probably due to uneven annealing of the cartridge brass and to slight imperfections on the unfinished surfaces of the cases.

GROUP II.

Diameter of body at first shoulder.	Diameter of neck at first shoulder.
"	"
.4435	.3430
.4432	.3425
.4428	.3418
a .4598	a .3562
.443	.3420
.444	.3430
.4432	.3422
.444	.3432
[Corresponding pair—Ref- erence No. 81.]	
"	"
.4425	.3415
.4427	.3415

a Cartridge case jammed.

GROUP III.

"	"
.4445	.3425
.4442	.3420
.4442	.3425
.4457	.3450
.4450	.3438
.4440	.3425
.4445	.3420
.4442	.3422
.4460	.3447
.4448	.3420
.4455	.3428
[Corresponding pair—Ref- erence No. 135.]	
"	"
.4443	.3425
.4442	.3423

GROUP IV.

"	"
.4435	.3420
.4447	.3432
.4443	.3425
[Corresponding pair—Ref- erence No. 124.]	
"	"
.4435	.3423
.4430	.3420

XII. Some of the distinctive markings on cartridge cases which have been noted from an examination of cases from 300 rifles are as follows:

- | | |
|-------------------------------------|--|
| Primer | 1. Circular ridge in striker imprint either + or —.
2. Spiral ridge in striker imprint either + or —.
3. Indented tit mark in bottom of striker imprint of various shapes.
4. General circular shape of striker imprint.
5. General elliptical shape of striker imprint.
6. Central location of striker imprint on primer.
7. Eccentric location of striker imprint on primer.
8. Burrs of various shapes on one edge or all around striker imprint.
9. Plus tit mark of various shapes in bottom of striker imprint.
10. Radial marks + and — in striker imprint.
11. Welt marks + and — on face of primer from imperfections in surface of head of bolt. |
| Base of cartridge case. | 12. Uneven bearing of bolt head on base of cartridge case.
13. Ejector cut burr scribes—deep shallow, and of various shapes on a radial section.
14. Edge of base beveled from improper cornering on cartridge head recess in head of bolt. |
| Body of cartridge case. | 15. Longitudinal scratches of various shapes.
16. Longitudinal welts of various shapes.
17. Circumferential scratches and ridges.
18. Circumferential welts.
19. Rear corner sharp.
20. Rear corner rounded with varying radii. |
| First shoulder and corners of same. | 21. Front corner sharp.
22. Front corner rounded with varying radii.
23. Welts, plus and minus, from ragged reaming.
24. One or more circumferential fine minus rings from ridges left in reaming. |
| Neck of cartridge case. | 25. Circumferential welts from ragged reaming.
26. One or more fine minus rings from ridges left in reaming. |

XIII. The probability of the occurrence of two exactly similar striker imprint from different rifles is less than 1 in 300, judging from the 300 cartridge cases that have been examined by the undersigned. But admitting a probability of similar striker imprints of 1 in 300, the probability of the simultaneous occurrence of, say, four or five of the distinctive markings mentioned above in the preceding paragraph, would, of course, be very slight, indeed.

XIV. In conclusion, it may be stated that it is believed that the cartridge cases of Groups I, II, and III have been identified with the rifles of Company B, Twenty-fifth Infantry, beyond a reasonable doubt. As stated above, there is some doubt as to the identification of Group IV, due to the fact that those cartridge cases have all been inserted in rifles more than once and the primers have probably been struck more than one blow.

XV. All cartridge cases mentioned above, together with rough sketches of the markings in striker imprints for the different groups, are furnished herewith.

Very respectfully,

WILFORD J. HAWKINS,
Lieutenant, Ordnance Department, U. S. Army.

Respectfully forwarded; approved. The results would seem to justify Lieutenant Hawkins's conclusions, as expressed in Paragraph XIV of this report.

FRANK H. PHIPPS,
Colonel, Ordnance Department, U. S. Army, Commanding.

SPRINGFIELD ARMORY, MASS., February 20, 1907.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ORDNANCE,
Washington, March 18, 1907.

CHAIRMAN SENATE COMMITTEE ON MILITARY AFFAIRS,

Washington, D. C.

SIR: In compliance with your request I have the honor to transmit herewith lists giving names of the enlisted men of Companies B, C, and D of the Twenty-fifth Infantry, with the serial number of the rifle issued to each man and in their possession on August 13, 1906.

Very respectfully,

WILLIAM CROZIER,
Brigadier-General, Chief of Ordnance, U. S. Army.

Names of enlisted men in Company B, Twenty-fifth Infantry, on August 13, 1906, with number of rifle issued to each man.

Name and rank.	No. of rifle.	Name and rank.	No. of rifle.
First Sergt. Mingo Sanders.....	41483	Private Lawrence Daniel.....	46016
Q. M. Sergt. Walker McCurdy.....	43167	Private Ernest English.....	41009
Sergt. James Reid.....	41796	Private Shepherd Glenn.....	46266
Sergt. George Jackson.....	46544	Private Isaac Goolsby.....	13082
Sergt. Luther T. Thornton.....	43783	Private William Harden.....	41971
Corpl. Jones A. Coltrane.....	46446	Private Charley Halrston.....	46029
Corpl. Edward L. Daniels.....	43733	Private John Hollomon.....	46392
Corpl. Wade Harris.....	43721	Private Sammel R. Hopkins.....	41183
Corpl. Ray Burdett.....	46321	Private James Johnson.....	41591
Corpl. Wade H. Watlington.....	46516	Private Solomon Johnson.....	46131
Corpl. Anthony Franklin.....	45418	Private Henry Jones.....	45537
Cook Alexander Walker.....	11747	Private William J. Kernan.....	41911
Cook Leroy Horn.....	43374	Private George Lawson.....	46615
Private James Allen.....	43166	Private Willie Lemons.....	42788
Private John B. Anderson.....	45315	Private Samuel McGhee.....	45321
Private William Anderson.....	41331	Private George W. Mitchell.....	45697
Private Batler Bailey.....	41156	Private Isaiah Raynor.....	41390
Private James Bailey.....	39714	Private Stansberry Roberts.....	45285
Private Elmer Brown.....	43464	Private William Smith.....	42036
Private John Brown.....	46209	Private Thomas Taylor.....	42288
Private William Brown.....	45226	Private William Thomas.....	41196
Private William J. Carlton.....	45700	Private Edward Warfield.....	44652
Private Harry Carmichael.....	46502	Private Julius Wilkins.....	43561
Private George Conn.....	45927	Private Alfred N. Williams.....	46462
Private John Cook.....	45698	Private Brister Williams.....	38889
Private Charles E. Cooper.....	39623	Private Joseph L. Wilson.....	46524
Private Boyd Conyers.....	41501	Private Frank Jones.....	46266
Private Carolina De Saussure.....	41447		

Spare parts expended in the repair of arms during the period from July 1 to September 17, 1906, 3 cocking pieces with firing-pin rod.

These spare parts were broken while the company was at target practice at Fort Niobrara, Nebr., and were replaced with new ones before the company arrived at Fort Brown.

C. C. KINNEY,
Captain, Twenty-fifth Infantry, Commanding Company B.

Names of enlisted men in Company C, Twenty-fifth Infantry, on August 13, 1906, with number of rifle issued to each man.

Name and rank.	No. of rifle.	Name and rank.	No. of rifle.
William Turner, first sergeant.....	42956	Holland, Alphonso, private.....	49781
George W. McMurray, quartermaster-sergeant.....	47897	James, Robert, private.....	40892
Samuel W. Harley, sergeant.....	37487	Jefferson, Thomas, private.....	52476
Newton Carlisle, sergeant.....	44175	Johnson, Edward, private.....	58017
Darby W. O. Brawner, sergeant.....	49636	Johnson, George, private.....	58172
George Thomas, sergeant.....	51340	Kirkpatrick, James, private.....	58292
Charles H. Madison, corporal.....	52124	Lee, Edward, private.....	47906
Soloman P. O'Neill, corporal.....	58333	Lewis, John W., private.....	51961
John Young, corporal.....	53929	Lipscomb, Frank J., private.....	58278
Preston Washington, corporal.....	51835	Logan, West, private.....	52196
Willie H. Miller, corporal.....	55258	Mapp, William, private.....	34972
John H. Hill, corporal.....	48951	McGuire, William, private.....	53531
George Grier, cook.....	51814	Mitchell, Andrew, private.....	58134
Henry W. Arvin, cook.....	49437	Mosley, Thomas L., private.....	40892
James E. Armstrong, musician.....	52004	Newton, James W., private.....	47911
Walter Banks, musician.....	47527	Perkins, George W., private.....	49042
Charles E. Rudy, artificer.....	52991	Perry, James, private.....	54806
Adair, Clifford I., private.....	47531	Reid, Oscar W., private.....	51297
Askew, Charles W., private.....	41847	Rogers, Joseph, private.....	46740
Baker, Lewis J., private.....	52210	Simmons, James A., private.....	54086
Bounsier, Frank, private.....	47747	Sinkler, James, private.....	41598
Carter, Joseph, private.....	49651	Smith, Calvin, private.....	49780
Cisco, Perry, private.....	47576	Smith, George, private.....	52298
Collier, Robert L., private.....	47751	Smith, John, private.....	52888
Dabbs, Erasmus T., private.....	49300	Streater, John, private.....	51896
Garmon, Mark, private.....	54236	Turner, Robert, private.....	42566
Gray, George W., private.....	53033	Webb, Leartis, private.....	53127
Gray, Joseph H., private.....	58029	Williams, August, private.....	a 5172
Harden, James T., private.....	50921	Williams, James, private.....	(b)
Harris, George W., private.....	51951	Williams, Louis, private.....	52370
Hawkins, John T., private.....	54086	Woodson, James, private.....	54083

^a Probably should be 51722—W. C.

^b No rifle issued—absent; sick at Fort Bayard, N. Mex.

Spare parts expended half year ending December 31, 1906.

Spare parts for magazine rifle, caliber .30, model 1898:

Hinge bars, complete.....	4
Magazine springs.....	4
Mainsprings.....	3
Rear sight base screws, front and rear.....	4
Rear sight slides.....	5
Rear sight drift slide pins, assembled.....	5
Side plate screws.....	5
Stocks.....	4
Swivels, assembled.....	4
Swivel plate screws.....	4
Upper bands.....	1
Upper band screws.....	1

There were no spare parts expended for the magazine rifle, caliber .30, model 1903.

Spare parts are not issued, but repairs to arms are made by the quartermaster-sergeant and company artificer. No record is kept of the dates on which spare parts are used in so repairing arms.

Respectfully submitted.

J. A. HIGGINS,

First Lieutenant, Twenty-fifth Infantry, Commanding Company C.

Names of enlisted men in Company D, Twenty-fifth Infantry, on August 13, 1906, with number of rifle issued to each man.

Name and rank.	No. of rifle.	Name and rank.	No. of rifle.
Jacob Frazier, first sergeant.....	42216	Haley, Alonzo, private.....	55118
Thos. J. Green, quartermaster-sergeant.....	49519	Hall, Geo. W., private.....	53370
Israel Harris, sergeant.....	42105	Harris, Barney, private.....	49043
Jerry E. Reeves, sergeant.....	42504	Henry, John, private.....	53831
Walter Adams, sergeant.....	41224	Howard, Jos. H., private.....	52169
Temple Thornton, corporal.....	42856	Jackson, John A., private.....	53983
Sam'l. Wheeler, corporal.....	49784	Johnson, Benj. F., private.....	48196
Charles Hawkins, corporal.....	54054	Johnson, Walter, private.....	49058
David Powell, corporal.....	38857	Jones, Chas., private.....	41759
Winter Washington, corporal.....	41762	Jones, John R., private.....	42301
Albert Roland, corporal.....	51762	Jones, Wm. E., private.....	50821
Hoytt Robinson, musician.....	49013	Jones, Wm. R., private.....	43224
Joseph Jones, musician.....	42864	Jordan, Edward, private.....	55781
Chas. Dade, cook.....	42695	Mapp, Wesley, private.....	42547
James Duncan, cook.....	49643	Matthews, Wm. A., private.....	42666
Geo. W. Newton, artificer.....	52297	Newton, Jas., private.....	50477
Ash, Alex., private.....	41431	Peters, Elmer, private.....	42624
Ballard, Jas. H., private.....	50391	Reeves, Len, private.....	42862
Barclay, Henry, private.....	42465	Robinson, Edw., private.....	52755
Battle, Sam. M., private.....	41958	Robinson, Henry, private.....	48072
Birdsong, Wm. H., private.....	52856	Rogan, Robt. L., private.....	51407
Brown, Henry T. W., private.....	52260	Scott, Saml. E., private.....	52989
Butler, John, private.....	42843	Shanks, Jos., private.....	41565
Cotton, Luther, private.....	42049	Slow, John, private.....	51745
Crooks, Richard, private.....	58310	Sparks, Zach., private.....	37710
Davis, Henry H., private.....	54795	Stoudemire, Taylor, private.....	42211
Darnell, Strawder, private.....	54415	Van Hook, Wm., private.....	42316
Gant, Elias, private.....	54789	Wickersham, Edw., private.....	42547
Garrard, Chester, private.....	42495	Williams, Robt., private.....	42665
Gill, James C., private.....	41835	Willis, Dorsie, private.....	53063
Green, John, private.....	49649		

Spare parts expended half year ending December 31, 1906.

Bolt stops.....	3
Cut-off spring spindles.....	10
Cut-off spindles.....	6
Cut-off spindle screws.....	6
Ejector pins.....	11
Firing-pin screws.....	3
Extractors.....	10
Followers.....	2
Front sights.....	2
Front sight pins.....	2
Floor plate catches.....	2
Floor plate catch pins.....	2
Floor plate catch springs.....	4
Guards.....	2
Guard screws, front.....	4
Guard screws, rear.....	4
Guard screws, bushing.....	2
Hand guards, complete.....	6
Rear sight slide screws.....	6
Rear sight slide spring plungers.....	3
Rear sight joint pins.....	3
Sears.....	3
Sear joint pins.....	3
Sear springs.....	6
Sleeves.....	2

Spare parts are not issued, but repairs to arms are made by the quartermaster-sergeant and company artificer. No record is kept of the dates on which spare parts are used in so repairing arms.

SAMUEL P. LYON,
Captain Twenty-fifth Infantry, Commanding Company D.

Senator FORAKER. I suppose these will be printed in the record?

The CHAIRMAN. Yes.

Senator FORAKER. The letter and the two reports? Now, the shells and bullets are all here, are they?

The CHAIRMAN. Yes; and I understand there is some other matter that will come up.

Senator FORAKER. What other matter?

The CHAIRMAN. Spooner and Adams are here, and will be examined also. You have the bullets all prepared and are ready to bring up the matter?

Lieutenant HAWKINS. They are not here now.

Senator FORAKER. I want to examine some witnesses that I have here before that is done, if I can, and I want to read this report before I cross-examine the witness.

Senator FRAZIER. I think we all want to read these reports, and we want to examine further witnesses to-day.

The CHAIRMAN. Then we will excuse Lieutenant Hawkins, and ask him to remain in town until we get ready to examine him.

TESTIMONY OF FIRST LIEUT. JOSEPH C. BRADY.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Give us your name in full, Mr. Brady.—A. Joseph Charles Brady.

Q. Are you in the military service of the United States?—A. I am first lieutenant, Fourth U. S. Infantry.

Q. Where are you stationed now?—A. Columbus Barracks, Ohio.

Q. Were you ever stationed at Fort Brown, Brownsville, Tex.?—A. I was stationed there with three companies of the Fourth Infantry and was quartermaster of that post from March, 1902, until the same month of 1903.

Q. About a year, then?—A. Yes, sir.

Q. What troops of the Fourth Infantry were there while you were there?—A. Companies A, B, and C.

Q. Your troops were white troops?—A. Yes, sir.

Q. Please state whether or not your men, while they were in Brownsville, had any difficulties with the citizens of that town, any affrays of any kind?—A. The fact most prominent to my mind was the killing of a soldier by a Mexican.

Q. What was the name of that soldier?—A. His name was Brady.

Q. Do you remember his first name? Was it Thomas Brady? What company did he belong to?—A. He belonged to A Company of the Fourth. I think his name was Thomas.

Q. He belonged to what company?—A. A Company.

Q. Might you be mistaken about that? Was B Company there with you?—A. Yes, sir; I might be mistaken about the company.

Q. I have a report before me which shows he was of B Company. Who were the other officers of the Fourth Infantry who were there at that time?—A. Major Mason, of the Fourth Infantry, was then in command.

Q. What was his first name?—A. Charles W.

Q. Maj. Charles W. Mason was commanding officer, was he?—A. Yes, sir. Capt. J. C. Castner, of the Fourth Infantry, was there, and Lieut. J. C. Waterman.

Q. Who was the company commander of B Company, if you recall?—A. I think that Capt. E. V. Smith was captain at that time.

Q. Do you know where he is now?—A. I think he is now stationed at Fort Mackenzie, Wyo.

Q. Do you remember any of the circumstances of this affray in which Thomas Brady was killed?—A. He was killed in a saloon, I believe, in town. I forget the location. He was shot by a Mexican and died almost immediately. The Mexican's name, if I remember correctly, was Franklin. He lost his hat in the scrimmage, and it was such a peculiar one that it was readily identified. The man Brady was attended by Doctor Combe, who was then the contract surgeon at the post.

Q. Afterwards mayor? You were not there when he was mayor?—A. He was the brother of the present mayor. He was then, I believe, a major, surgeon.

Q. Do you know what was done with the murderer, Franklin?—A. He crossed the river to Matamoros. The facts were placed before the town authorities, but nothing resulted from it, although the men were told—this is hearsay, you know—that he had been seen in Brownsville days afterwards.

Q. Do you know anything about any other shooting affrays there while you were stationed there?—A. The Texas Rangers had a headquarters or a ranch just beyond the post or reservation, and there was a ranger named Baker who was very unpopular, having, I believe, in his line of duty, killed a Mexican or two, and he was ambushed, he and another ranger. At the time he was riding a horse of a very prominent color, either white or gray, and this evening, returning to the ranch from Brownsville, they had exchanged horses for some reason or other, and they were ambushed very near the post, and the ranger who was riding Baker's horse was killed. Baker escaped and succeeded in reaching headquarters.

Q. What headquarters did he reach?—A. The rangers' headquarters.

Q. The headquarters of the rangers?—A. Yes, sir; the shooting was so close to the post that a number of shots struck the porch of one of the noncommissioned officers' quarters. It of course alarmed the post, and if I remember correctly—

Q. Was there much shooting in connection with that matter?—A. I should say the fusillade lasted a minute or so.

Q. Quite a number of shots, I suppose, were fired?—A. Quite a number.

Q. Did that occur in the daytime or the nighttime?—A. It occurred at night.

Q. About what hour of the night, as far as you can remember?—A. Between 8 and 9 at night; possibly a little later.

Q. Do you recall any other shooting affrays of that nature—or, before I leave that, who was it, if it was ever ascertained, who killed this man who was with Baker?—A. They attributed it to the Mexicans. Baker, I believe, some time previous to this date, shot a young

fellow in a store. He went to arrest him, and a great many claimed that Baker killed him in cold blood. There was a great deal of feeling between the Mexicans and the rangers, and of course the feeling was strong against them.

Q. About that you only know what you heard?—A. I was right there and saw it very promptly; and after Baker had killed this man a captain of the rangers, whose name I don't recall, came to the commanding officer of the post and asked to have Baker remain in the post all night for protection, as he feared that the Mexicans would get him, as they said.

Q. Yes.—A. The governor was asked to remove the ranger several times, also.

Q. Did Baker take refuge in the post?—A. Baker took refuge in the post, and was kept in the guardhouse all night. Of course I presume the citizens condemned us for that.

Q. Some of the citizens condemned you for that? You did that at the request of the captain of the rangers?—A. Yes, sir.

Q. You do not remember his name?—A. I do not recall his name.

Q. Was he Captain McDonald, do you recall?—A. That was his name; McDonald.

Q. Capt. W. J. McDonald?—A. Yes, sir; I don't remember exactly.

Senator OVERMAN. Did I understand that some of the citizens condemned you for allowing the man to remain there?

The WITNESS. They thought it was a reflection upon their government. The felt aggrieved, I possibly should say.

By Senator FORAKER:

Q. State what, from all you observed, was the general feeling toward the soldiers of the community while you were there. Was it one of friendliness or unfriendliness?—A. I don't remember any absolute act of unfriendliness, but at the same time I don't think it was as congenial a town as many I had been stationed in.

Q. Now, what kind of a population is it there at Brownsville? I mean first as to the nationality. To what extent do Mexicans live there, for instance?—A. At the time we were stationed there nearly all of them were Mexicans, or of Mexican extraction. There were not a dozen American families at that time that really the best people came in contact with socially.

Q. Not more than a dozen families?—A. Yes, sir.

Q. All the rest were Mexicans?—A. People of Spanish extraction.

Q. People of mixed blood?—A. Yes, sir.

Q. What about the police force? Did you have an opportunity to observe that? How large a force was it, and who constituted that force, Mexicans or Americans?—A. I don't remember ever seeing but one or two officers of the police force, and they were Mexicans.

Q. Did you ever have occasion to converse with any of them?—A. Yes, sir; I used to when I would cross the river on the ferry; there was usually one there in waiting for the boat, and I would speak to him more than at any other time.

Q. What language did they speak?—A. Well, they always speak Spanish, and I always speak English. I don't know what the soldier Spanish is, but I know what the soldier English is.

Q. Soldier Spanish?—A. Yes, sir.

Q. Did they or not, so far as you observed when you came in contact with them, speak the American language without difficulty?—A. They could only speak it with difficulty.

Senator FORAKER. I believe that is all.

By Senator WARNER:

Q. These police officers spoke what you call the "soldier Spanish?"—A. Yes, sir.

Q. That is, they spoke broken English?—A. Broken English, interspersed with Spanish and American words.

Q. Yes; the same as a German citizen coming here, he would speak what you would call "soldier German," I suppose?—A. Yes, sir.

Q. That is what you mean by that?—A. Yes; of course a great many of the men had picked up a smattering of Spanish in the Philippines.

Q. Yes; and you spoke of Captain McDonald coming to you. He was on a peaceful mission?—A. Yes, sir.

Q. The difficulty that had gotten up between the rangers and Spaniards, of course, you knew nothing of except this; nothing except what was told you?—A. What was told me.

Q. And that was in 1902 or 1903, which was it?—A. I don't remember now.

Q. You went there in March, 1902?—A. Yes, sir; and left there about March of 1903.

Q. I know; but I was asking you about this occurrence.—A. It was there between those dates. I do not remember the month.

Q. Now, this man Baker, who you say was killed—A. No, sir; Baker wasn't killed.

Q. Baker was not killed, but the man you think was mistaken for Baker?—A. Yes, sir.

Q. He was riding Baker's horse?—A. Yes, sir.

Q. You say the parties who did that killing never were detected, as far as you know?—A. So far as I know; no, sir. The rangers started out immediately that night and attempted to trail him through the cactus, but never were able to do anything with it. They attributed it to the Mexicans, because they had had trouble with them.

Q. They made every effort, so far as you know, to capture the party?—A. That night; yes, sir.

Q. And afterwards, so far as you know?—A. As far as I know; yes, sir.

Q. You know in your observation that in other cities there have been murders where the murderer never has been found or detected, do you not?—A. Yes, sir.

Q. And that was simply this case there that you mentioned? That is the fact, is it not?—A. Yes, sir.

Q. Now, one other—Thomas Brady, I think you say?—A. As I remember, his name was Brady. I am not positive about his surname.

Q. I say "Thomas," because Senator Foraker asked you if it was Thomas.—A. Yes, sir; the record will show. He was buried in the cemetery.

Q. But he belonged to the company, you think?—A. One of the companies. I had a company in mind, I am certain.

Q. When was that?—A. I can not fix the time at all, sir.

Q. When I say what time, I mean the time he was shot and killed.—A. It was in the evening.

Q. I know; but the month or the year.—A. I don't remember the month at all. My recollection was that it was in the fall of 1902.

Q. But that, as you understood, grew out of a saloon difficulty?—

A. Yes, sir; that was the general idea. That it was some sort of trouble that night around, or after they had been to, a saloon.

Q. Were you present?—A. No, sir.

Q. You know nothing of it of your own knowledge?—A. No, sir.

Q. You were quartermaster?—A. Yes, sir.

Q. And as quartermaster you were not the officer to investigate the facts as to that, were you? It would simply come to you as a matter of routine?—A. Yes, sir; I happened to be at the hospital when the man was brought in. That is the reason I was closely in touch with it.

Q. Then, you do not know what he was doing at the time of the shooting?—A. No, sir; I don't know what he was doing.

Q. These things occurred during the year you were there?—A. Yes, sir.

Q. About what was the population of Brownsville at the time?—

A. It had rather a roving population. I should place it at anywhere from four to six thousand. They were going and coming across the border, of course.

Q. You have been stationed at other posts west?—A. I have been stationed at San Antonio; that is in the same district.

Q. Where else?—A. I was stationed at St. Louis all during the fair, and I have been at Columbus.

Q. Columbus, Ohio?—A. Columbus, Ohio.

Q. Did you ever hear of anybody being killed at Columbus, Ohio, while you were there in the town?—A. Belonging to the commands?

Q. No; but anybody being killed in the town?—A. Yes, sir; I believe they have brawls there once in a while.

Q. Similar quarrels, in Columbus, Ohio?—A. None in which the Army have been concerned.

Q. No; but you heard of murder being committed there?—A. Yes, sir; I have seen and read accounts of it in the papers.

Q. Yes. And how long were you in Columbus, Ohio?—A. I have been there two years last January.

Q. How long did you remain there?—A. I have been stationed there two years. I am there at present.

Q. You are there at present?—A. Yes, sir.

Q. Now, you say the man who killed Brady was reported to have been a man named Franklin?—A. Yes, sir.

Q. He became a fugitive from justice?—A. Yes, sir.

Q. And went across into old Mexico?—A. Yes, sir; the town of Matamoros.

Q. And you state it was rumored that he had been seen in town?—A. Yes, sir.

Q. You do not undertake to say that any of the officers or authorities knew of him being in the city, do you?—A. No, sir.

Q. Did you ever give information to any officer that he had been there?—A. If I remember correctly, I reported it to the commanding officer that it had come to me.

Q. The commanding officer; that is the commanding officer in the fort?—A. Yes, sir; that the man had been seen on our side of the river, as we called it, since the murder. What steps he took I do not know.

Q. No; nor what foundation there was for that report you do not know?—A. The party that told me that, told me that they had seen him.

Q. Who was that party?—A. It was a young lady living in the town, sir.

Q. What was her name?—A. I would like to be excused from giving her name, as it was told to me in confidence.

Q. I think it is just as well to know it, Lieutenant. [After a pause.] What was this man Franklin's business?—A. I don't know as he had any particular business, sir; possibly as a cowboy, or "vaquero," as they call them. No particular business. He had worked around in the different stores.

Q. An American or a Mexican?—A. A Mexican. I presume he secured the name—possibly might have been of mixed blood, as many of them were. It was rather a strange name for a Mexican.

Q. But he was, as I take it from your description, a man of rather rough habits?—A. Yes, sir.

Q. Rather a rough description?—A. Yes, sir.

Q. This young lady that you spoke of belonged to one of the families on whom you called there?—A. Yes, sir; one of the most prominent families there. You understand me, Senator, I would not like to have the young lady's name mentioned in connection with this affair, unless assured, of course, that it should go no further, which is hardly possible.

Senator WARNER. I could not give you any such assurance, of course. I might on my own account, but not for others.

Senator BULKELEY. I do not see any occasion for it.

Senator FORAKER. I do not, either.

The WITNESS. It is not only the prominence of the family, but the fact that the papers get about everything, as you know. I would have no objection to telling it confidentially, of course.

By Senator WARNER:

Q. I understand that, but you do not pretend to say that the officers of the police force or the mayor did not use all the means in their power to arrest this man Franklin?—A. My view was, sir, that if those had been American officers, in a town of that size, that man would have been caught, or could have been held by the authorities on the other side until proper steps could be taken, as the man was a well-known character about the town.

Q. That is your opinion?—A. Yes, sir; that is my opinion.

Q. Yes; but, as I say, you have no knowledge of what search was made for him, or what efforts they made to apprehend him?—A. Yes, sir; but I am morally certain that the man was around, and I know that he was not taken.

Q. Would it not be well simply to answer the question. Lieutenant? I say you have no knowledge of any effort that the officers made to capture him?—A. No, sir: I know of no methods that they took.

Q. Yet you state you are morally certain of certain things?—A. Yes, sir.

Q. Now, there were a great many Spaniards there—full-blooded Spaniards.—A. I do not believe there are more than one or two families, sir, who would call themselves full-blooded Spaniards.

Q. Is the business conducted in Brownsville by Mexicans or Spaniards, or half-breeds?—A. Yes, sir.

Q. Largely conducted, the stores, I suppose?—A. Yes, sir. The only pure Spaniard that I came in contact with was a gentleman named Celaya, who had that railroad. Outside of him, I never met any other whom I would call a Spaniard.

Q. You knew Major Combe?—Yes, sir.

Q. Who was then major and surgeon in the Army?—A. Yes, sir; he at that time was conducting a drug store.

Q. Do you include him in one of the twelve families?—A. Yes, sir.

Q. You knew his brother?—A. Yes, sir; he was then the surgeon at the post.

Q. You would include him in the twelve families?—A. Yes, sir.

Q. You knew Mr. Kelly?—A. Yes, sir.

Q. You would include him in one of the twelve families?—A. Yes, sir.

Q. And when you take them out you would reduce the number down to nine. Now, who were they?—A. I might mention the Celayas, and Mr. Dworman.

Q. What was he?—A. I would consider him a Spaniard—at least, of the better class of Mexicans.

Q. Who else?—A. A gentleman named Dworman—Samuel Dworman. Then there was a family named Putegnath.

Q. Yes.—A. Then there was Mr. Creager, who now, I believe, is a Federal officer in that district of some sort. There may possibly be others whom I do not remember now. I remember those gentlemen particularly, as they came to the barracks more than others.

Q. As the only ones whose families you felt that a person ought to call upon?—A. They were the only ones who made any attempt to get in touch with the social life there, that I saw.

By Senator FOSTER:

Q. What do you mean by "social life," Lieutenant? What do you mean by "getting in touch with the social life?"—A. In those border towns, if there are any social features at the garrisons they usually attend; and that of course is where I met them.

By Senator WARNER:

Q. That is what I thought. Then this lack of attempt to get in touch with social life was that they showed no attempt to get in social life at the fort?—A. Yes, sir.

Q. At the hops or the entertainments?—A. Yes, sir; and the social life of the town also, as the two were very close.

Q. What do you mean when you speak of the social life of the town?—A. In the nature of entertainments of any sort.

Q. A dance, for instance?—A. A dance, or anything given in connection with the church.

Q. A church festival?—A. A church festival; anything of that nature.

Q. So that when a church festival was given there would only be 10 or 12 families that would attend? Rather a slim church fes-

tival.—A. Rather, of the prominent ones. Then there would be the Mexicans.

Q. And when there was an entertainment given there would be only 10 or 12 families there?—A. Yes, sir; at the post.

Q. I am speaking of the town also. I have gotten out of the post now.—A. Yes, sir; in the town also, if there was a party given in a house. If there was a church festival, there would be a great many Mexicans there to sell different products.

Q. To do what?—A. To sell different things of the nature of Mexican foods. But they really did not—

Q. How many churches were there in the town?—A. The one I remember prominently was a Catholic church.

Q. Well, but how many churches, if you know? I did not say "prominently."—A. I do not think there were over two or three.

Q. There was a Catholic church?—A. Yes, sir; that is the only one I remember prominently. That is the one I attended.

Q. You attended that one?—A. Yes, sir; I went to mass there on a number of occasions. They had a large congregation, mostly Mexicans.

Q. A large congregation?—A. Yes, sir; as nearly all of them down there were Catholics. Ninety-eight per cent, I presume, were Catholics.

Q. That was a respectable congregation?—A. The usual Mexican congregation.

Q. I am not familiar. Lieutenant. It was a respectable-looking congregation?—A. Well, if you were to walk down to a church here in this city and see a congregation of that sort, you would imagine that you were in about the poorest district of the city if you did not know where you were.

Q. That is, you would not see the people as finely dressed as you will see them on Pennsylvania avenue going to church, or on Fifth avenue, in New York, going to church?—A. Yes, sir.

Q. But I am not talking about the clothing of the parties, if they were poor, but I am talking about respectable people. A person could be respectable without seeking the social circle of camp life, could they not?—A. There is no question about that, sir.

Q. Just as respectable as the men who tried to get in touch with social life, could they not?—A. Possibly so.

Q. You simply think possibly so? Is that your judgment?—A. They certainly did not occupy the social plane that you would find in most any other American city. That is what I mean; that it was more of a border representation.

Q. Yes; but you do not want the committee to understand that because a man was poorly clad, or a laboring man, and did not seek to get in touch with the social circle, therefore he was not a respectable, law-abiding citizen?—A. No, sir: I do not.

Q. Now, coming back to this large congregation that assembled in the Catholic Church: as far as you could tell they seemed to be peaceable, law-abiding citizens, were they not?—A. Yes, sir.

Q. And was not that true of the people of Brownsville; as much so as in any border town or western town?—A. That is rather a hard question to answer, sir. I mean no reflection upon the general public at Brownsville, but I do not consider that the population was as staid; was as liable to take up questions like most any other class would.

Q. Pardon me; not as liable to do what?—A. To take up questions in a peaceable manner. For instance, to illustrate, when this man Baker was not given the safety of the barracks, but to prevent any possible disturbance was allowed to remain in the post over night, there was no delegation of citizens that came and protested against it or took up the question from the other side. They simply thought we were doing a wrong thing, and made no question of it—made no concealment of their feeling in the matter.

Q. But no delegation of citizens called upon you to protest?—A. There was nothing from the other side. The mayor or the police did not come and say that they did not desire a reflection upon the town of that sort; that they felt fully able to keep the peace, or anything of that nature.

Q. What was done?—A. There was nothing done beyond the fact that they stated we were harboring a murderer, and things of that sort.

Q. Who said that?—A. The general sentiment of the town, and the papers stated it, and I presume the people do to this day.

Q. The papers stated it?—A. Yes, sir.

Q. And you formed your opinion from what the papers said?—A. It was the only paper there, and usually expressed the sentiments pretty carefully.

Q. That is your general observation of the papers of Brownsville?—A. Of that particular paper; yes, sir.

Q. That was one of those papers that are generally accurate?—A. A paper in a small town of that sort usually stays pretty close to the sentiment of the people.

Q. But that paper was printed in the Spanish language?—A. No, sir; it was an American paper.

Q. An American paper and published in that community, and was a truthful sheet?—A. In regard to local matters I think it was, sir.

Q. But there was no protest made by the mayor or the officials that you had given shelter to this man?—A. No, sir.

Q. And the purpose of giving shelter was possibly to prevent a lynching, was it not?—A. That was the general idea. That is what the captain of the rangers gave us to understand.

Q. You know that lynching is not confined alone to Brownsville, is it, or to Texas, or to any one State of this Union, do you not?—A. From what I see, from the papers; yes, sir.

Q. Assuming that those papers are correct?—A. Assuming that the papers are correct.

Q. And that was all that there was of that matter?—A. Yes, sir.

Senator WARNER. I think that is all.

Senator FORAKER. I want to put in evidence here the official report that I have had sent me by the War Department on the killing of Thomas Brady at Fort Brown. I will read it so that it may go into the record here:

FORT BROWN, TEX., November 26, 1902.

THE ADJUTANT-GENERAL, U. S. ARMY.

Washington, D. C.

SIR: I have the honor to submit the following report concerning the death of Private Thomas Brady, Company B, Fourth U. S. Infantry, killed at Brownsville, Tex., about 12 o'clock Saturday night, November 1, 1902.

As near as can be ascertained, the facts in the case are as follows:

Private Brady came to his quarters in Fort Brown (which is situated on the outskirts of Brownsville) the night of his death and stood 11 o'clock inspection, after which he left the post and went into Brownsville. He had been drinking freely, and evidently with the intention of getting more liquor went to one of the numerous "mescal joints" which flourish in Brownsville under the guise of dwelling houses, and was there shot in the breast by one Franklin, a citizen of Brownsville, which shot caused his death shortly afterwards. There was no trouble prior to the shooting, and it is the general consensus of opinion that Franklin, who was intoxicated, mistook Private Brady for another soldier with whom he had some time before had trouble and shot him (Brady) on sight.

Private Brady was a peaceable soldier and not given to making trouble. He had been drinking considerably, and from the effects of the liquor and the wound was unable to state anything about the shooting other than that there had been no trouble prior to the act and that he did not know why the man had shot him. He died while being transported to the post hospital from the scene of the shooting.

The man Franklin escaped into Mexico after the shooting and has not yet been apprehended.

As there were no witnesses to the shooting it is very difficult to give a full account of the affair.

I am of the opinion, however, that the death of this soldier was not incurred in the line of duty from the fact that he was absent from his company barracks without authority after taps and was killed in an unlawfully conducted liquor resort.

Very respectfully,

JOHN C. WATERMAN.

Second Lieutenant, Fourth Infantry, Commanding Company B.

By Senator FOSTER:

Q. Did you hear of the presence of Franklin in Brownsville from any other party or parties except this young lady?—A. No, sir.

Q. Did she state of her own personal knowledge that she knew he was there?—A. She had seen him; and she had known him all her life.

Q. Did she state of her own personal knowledge that she had seen him in Brownsville after this homicide?—A. Yes, sir.

Q. Did she tell you where she had seen him?—A. If I remember correctly, she mentioned the street and the place; had passed him on her way to the barracks in the evening.

Q. Was this told to you in confidence?—A. Practically so; yes, sir.

Q. Did you report that fact to any officer of the town?—A. No, sir; I reported it to the commanding officer of the post.

Q. When Baker sought refuge in your barracks there, do I understand that the citizens objected to him being there?—A. Yes, sir.

Q. For what reason? What objection or protest did they make?—A. They considered it a reflection upon their peaceful community; that is, upon their ability to maintain order in their own town, as I understood it.

Q. I understood you to say, and I think very probably you made a mistake, that they objected on the ground that you were concealing a murderer.—A. Well, in talking the matter over afterwards they considered that this ranger had murdered this Mexican in this store. There was a great deal of talk as to how he had killed him, whether he had told him he was under arrest or whether he shot him and attempted to arrest him afterwards.

Q. And that Baker had murdered the man?—A. Yes, sir.

Q. How long before this last killing?—A. I do not remember the sequence of these events, sir. It has been four years ago, practically,

and I do not remember the time, and I do not know in what sequence they followed each other.

Q. Do you know when Baker was charged with killing this man, and by whom he was killed, and in what year the killing took place?—A. I think it was all in 1902, sir; in the fall.

Q. While you were there?—A. While I was there, sir.

Q. Have you been in any other border towns—stationed there—since you have been in the Army?—A. No, sir; not what I could call a border town.

Q. Were the rangers—the Texas Rangers, as they were then known and are now known—a regularly, legally constituted police force?—A. They were a State force.

Q. They were a State force, organized under the laws of Texas?—A. That is where the conflict of authority came in. They attempted to make arrests and exercise their functions as officers of the peace within the city, which I believe was disputed by the municipal authorities. They wanted the rangers to confine their operations to outside of the corporate limits.

Q. What arrests did the rangers ever attempt to make in Brownsville against the protests of the officials of the town?—A. I don't remember of any specific case, sir. There used to be numerous cases come up there in connection with smuggling, and I presume that the rangers would cooperate with the revenue officers. There were very few revenue officers there, scattered along the river.

Q. How many banks were there in that town when you were there?—A. I think Captain Kelley's bank, the First National, I think it was called, was the only one.

Q. The only one?—A. Yes, sir.

By Senator FRAZIER:

Q. One question. Was this man Baker tried for the offense that you refer to?—A. No, sir.

Q. Was he not tried for murder?—A. They considered it was in the line of his duty. I do not think there were any proceedings taken against him.

Q. It was justifiable?—A. Yes, sir. He was removed by the governor of the State right after that and taken out of the community and another sent in the place of him.

(Witness excused.)

(At 1.05 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Foraker, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

TESTIMONY OF HENRY WATSON.

HENRY WATSON, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please state your name in full.—A. Henry Watson.

Q. Are you in the military service of the United States?—A. A private in Company M, Twenty-sixth Infantry.

Q. Were you stationed with your company at Fort Brown in August, 1906?—A. I was there, left behind with a detachment after the company went away in August.

Q. You were left behind with Lieutenant Thompson?—A. Yes, sir.

Q. How long have you been in the service?—A. A little over fifteen years, sir.

Q. What regiments have you served in?—A. The Nineteenth, Thirteenth, Fourteenth, Sixtieth Coast Artillery, and the Twenty-sixth Infantry.

Q. Your service is now in the Twenty-sixth—your last service?—A. Yes, sir.

Q. You are there now?—A. Yes, sir.

Q. Are you serving your first enlistment in the Twenty-sixth Infantry?—A. My second.

Q. Your second enlistment in the Twenty-sixth?—A. Yes, sir.

Q. Do you remember about when your battalion left Fort Brown?—A. No, sir.

Q. It has been testified here that it was the 5th of July.—A. It was about that.

Q. Do you remember when the Twenty-fifth battalion came to take your places?—A. Yes, sir.

Q. Can you give us the date of that?—A. No, sir.

Q. How long was it after your battalion left?—A. About a month.

Q. You think something like a month?—A. Yes, sir.

Q. It has been testified that it was the 28th of July—that the Twenty-sixth left on the 5th and the others came on the 28th.—A. Yes, sir.

Q. How many men were left behind?—A. There were 40 men left in the first place, and then there were two men who were out on a surveying expedition that came and joined us afterwards for a short time and then they were sent away after.

Q. So there were 42 of you there together?—A. Yes, sir.

Q. Only one commissioned officer, Lieutenant Thompson?—A. Yes, sir.

Q. Was or was not that a detachment of 10 men from each of the companies?—A. Yes, sir.

Q. Where did you remain after the battalion left; you yourself, I mean, and the detachment from your company?—A. Remained in our own company quarters.

Q. And which quarters were M Company in?—A. The second quarters from the river.

Q. That is the barracks that would be immediately on your right as you go out of the gate?—A. As you go out of the gate; yes, sir.

Q. The barracks that we know as B barracks?—A. Yes, sir.

Q. That is where M Company was?—A. Yes, sir.

Q. How long did your detachment of 10 men remain there after the battalion left?—A. We were there somewhere in the neighborhood of two weeks; about in the neighborhood of two weeks in our own barracks, and then we all went to I Company barracks.

Q. That is up farther?—A. The last one in the line toward the guardhouse.

Q. And did you all remain there then until the Twenty-fifth Battalion came?—A. Yes sir.

Q. You were there when the Twenty-fifth came, were you?—A. Yes, sir.

Q. Tell us whether or not you had occasion to observe and did observe in what condition the barracks your company occupied—Company M—were left in when the battalion went out?—A. Yes, sir. They were left in very much disorder, and then I with another private of my company were ordered by the sergeant who was left with us to clean them up, which we did.

Q. What sergeant was that?—A. Sergeant Zachert.

Q. Where is he?—A. He is discharged. He is at St. Louis, I believe.

Q. He is in the service no longer?—A. No, sir.

Q. What did you find when you went to cleaning up your barracks?—A. The usual kind of ruck that is left by the soldiers—the cleaning boxes, bits of discarded clothing, empty shells, and some old Krag ammunition, cleaning cloths and material for cleaning up arms, and so forth, and bandoliers.

Q. Bandoliers?—A. Yes, sir.

Q. You saw some bandoliers there, did you?—A. Yes, sir.

Q. Where did you see all these different things you speak about?—A. Most of them were on the floor, or on the shelves that the men used to have their clothing on.

Q. What was done with them?—A. The shells, if they were the old shells, were swept up and thrown out in the dump cans. The clothing was given to the boys that came there, and the bandoliers, some of them were hung up and some were thrown out.

Q. Thrown outside?—A. Yes, sir; we had had dump cans out there—ash cans—to put such material in, but they were taken away immediately. We put some of the stuff in there first, but afterwards it was put in piles.

Q. State whether or not the quarters were then locked up and barred up or closed up in any way so people could not trespass in there.—A. Not so long as we were there, but afterwards when we were out they were closed; but then anyone could go in.

Q. State whether or not any of the rooms of your barracks were closed up.—A. Yes, sir.

Q. What rooms were they?—A. The kitchen and the dining room.

Q. Why were they closed up?—A. They took the barracks furniture and put in there, so as to save it being destroyed or carried away.

There was the kitchen utensils and dining-room stuff and the lamps were taken down and placed in the storerooms, and the kitchens and dining rooms were fastened up. That was done immediately, with the exception of one dining room where we all met together, but we slept in our own barracks.

Q. Could people from the town or children from the town enter the barracks during the time you remained there, except the kitchens and dining rooms that were closed up, as you say?—A. Almost at any time, unless it was the last few days.

Q. I will ask you whether or not children and citizens did come and go from day to day, picking up whatever they could?—A. Yes, sir; at all times.

Q. Was any care taken of the bandoliers at all except as you have indicated?—A. Why, after the company came back—no, sir; they was left behind. After the company came back from target practice at Point Ysobel there was, I think, seven men of my company—Private Fisher, who has already testified here, and Sergeant Huron and myself, and part of them. We went down and shot with K Company, and I was the only one that came back with the wagons, and I brought back what extra bandoliers we had—that we had used there of our own ammunition. K Company's was turned back to them. The other men came back on the cars, but I came back in the wagon. When we got there we found all the rest of the bandoliers were packed up in the boxes—those that they had had—so those that I had there there was no place for them, and they were just thrown under the stairway, most of them, but some of the boys took them upstairs, and I don't know what they did in order to use them. I believe some of them used them to cut off the piece of webbing that goes over the shoulder, and used them for a short strap on their canteens, in place of one they had lost on the road. Some of them were cut that way.

Q. Those that you brought back were not boxed up—were not put away?—A. No, sir.

Q. How many of them were there?—A. Oh, there might have been probably between 20 and 30—probably 25.

Q. After your battalion left you did see some bandoliers remaining there?—A. Yes, sir.

Q. They could have been picked up by anybody who would come along?—A. Yes, sir.

Q. You have a distinct recollection about that?—A. Yes, sir.

Q. And some were hung up in the barracks and the others were swept out, as I understood you to say?—A. Yes, sir.

Q. With the rest of the débris that was left behind?—A. Yes, sir.

Q. Now, tell us about whether you know anything about any effort on the part of anyone to get cartridges after your battalion left and before the Twenty-fifth came?—A. Yes, sir.

Q. What is that?—A. A short time after—well, for a couple of weeks or such a matter—I did not hear of anything; but just within a short time of the coming of the battalion of the Twenty-fifth there boys of the town asked me if we had any ammunition, and I said no; nothing only what I had, and they asked me if there was not a lot over in our old orderly room, and I said then: "What do you want of them? You can not sell them." They said: "Yes; we can sell them and get good prices for them." I thought possibly

they wanted them for the brass or the lead, to sell just for old brass, and there was a lot of .38 caliber pistol ammunition there, and I asked if they did not want them, and they said, "No;" that they could not sell them, but they could sell the others.

Q. This was what kind of ammunition?—A. The ammunition itself was all Krag; but the shells, a great many of them, were the new clip—ammunition with clips. They were not altogether the clips, but then the clips were there.

Q. Were there clips there as well as shells?—A. Oh, yes.

Q. By shells I mean exploded cartridges.—A. Yes, sir.

Q. That is what you mean?—A. Yes, sir; empty shells. When I speak of a shell, I mean one that has been fired.

Q. And where did you get the Springfield ammunition?—A. there was both Springfield and Krag shells, but there was no Springfield cartridges, because we had changed the guns such a short time before that we had no old ammunition or anything on hand of the new kinds—that is to say, the Springfield guns—but I had ten rounds myself that had to be accounted for.

Q. You had ten rounds of what kind of ammunition?—A. Of the Springfield.

Q. What was that, ball ammunition?—A. Yes, sir.

Q. The regular service ammunition?—A. Yes, sir. We were doing guard duty with that.

Q. I will ask you first how many rounds did each man in your company have while he was at Fort Brown?—A. We all carried the same thing, ten rounds.

Q. You had ten rounds of ball ammunition?—A. Yes, sir.

Q. I will ask you whether or not before the battalion left Fort Brown on the 5th of July an additional ten rounds of ammunition was issued?—A. Not to my knowledge. There was none issued to me.

Q. You had none issued to you?—A. No, sir; I was on guard at the time that the battalion left, and they might have issued some.

Q. You were not there?—A. I was on guard.

Q. You were on guard. They left on what day of the week?—A. The morning that they left, the actual morning that they left I was on old guard fatigue, handling baggage down at the train with them.

Q. If they issued any additional ammunition you do not remember it?—A. No, sir.

Q. You do not mean to say that they did not issue any ammunition?—A. No, sir.

Q. They might have done it without your knowing it?—A. Surely.

Q. You were not to go along and none was issued to you?—A. No, sir. It is usual, though, when troops move, to give them ten rounds additional.

Q. Do you know whether or not there is a general order of the War Department that when troops are in the field or when they move from post to post they must carry 20 rounds of ammunition?—A. Yes, sir; there is such an order.

Q. Then the probability is that the order was complied with?—A. Yes, sir.

Senator FORAKER. But I will prove that otherwise. That is all.

By Senator WARNER:

Q. You have been a soldier fifteen years?—A. Yes, sir; a little more than that.

Q. Where have you served?—A. I have served on the Rio Grande. First, with the Nineteenth Infantry, I soldiered in Fort Lyon, Colo., and also in the field. I was in Kansas and Colorado, and then at Leavenworth, Kans., then for a short time at Fort Dodge, Kans., afterwards at Fort Brown, and then at Fort Ringgold, where I was discharged. Then I was out of the service some time, and next I served at Fort Niagara, N. Y., and from there I went to the Philippines, and then when I came back from there and was discharged I went back to Fort Niagara again with the Fourteenth Infantry, and from there we went to Fort Porter, and from there to the Philippines again.

Q. When were the new pattern Springfield rifles issued to your men?—A. They were issued while the company was at Point Ysobel for target practice.

Q. When was that?—A. They left the 1st day of April. I was behind—

Q. Left where?—A. Left Fort Brown, to march to Point Ysobel, the 1st day of April.

Q. Then it was some time in the month of April?—A. Yes, sir; probably only two or three days afterwards, because they had to have the new rifles. The new rifles were issued so they could use them in the target practice.

Q. Shipped from Fort Brown to them?—A. I don't know whether they came to Fort Brown at all. They must have come to Brownsville, and I suppose they were shipped right through.

Q. Were you there at Point Ysobel?—A. Afterwards. I was in the hospital at this time when the company went down, and I went afterwards with K Company for my target practice.

Q. Where did you get your Springfield rifle?—A. I got it at Fort Brown.

Q. And what time did you leave Fort Brown for Point Ysobel?—A. Well, it was some time in the month of May. I think it must have been about the 10th of May.

Q. Can you fix that date?—A. No, sir; I could not positively; but what made me think it was K Company had got all done their preliminary practice when I got down there, and it would take them about that time, and they left the 1st of May.

Q. Point Ysobel was where they were having target practice?—A. Yes, sir.

Q. These bandoliers were only issued with the Springfield rifles, were they?—A. That was all, sir.

Q. They were not issued with the Kraggs?—A. No, sir.

Q. And your bandoliers you brought back with you?—A. Yes, sir.

Q. How did you come back?—A. By wagon.

Q. You brought all the bandoliers that you had at Point Ysobel back in the wagon with you?—A. I could not say I brought all of them, but I brought nearly all of them, at any rate.

Q. You thought you had all of them, did you?—A. Yes, sir.

Q. Were you a private soldier then?—A. Yes, sir.

Q. What did you have to do with the bandoliers?—A. Why, I brought up all the baggage of the other men and my own in the wagon. We were a mile from the station, and the wagon was coming right back, and the teamster came up with this.

Q. You simply brought it in your wagon then. Were you acting as teamster?—A. No, sir; I was a passenger in the wagon.

Q. And these bandoliers were put in that wagon?—A. Yes, sir; with the rest of our baggage.

Q. And that was how far from Fort Brown—twenty-odd miles?—A. I think 26 miles.

Q. And the others who came back by train—their bandoliers, as you understood—A. Were with mine. The bandoliers that the detachment used down there came back. There was some extra ammunition and some bandoliers that had ammunition in them, and others were empty. Those that had ammunition in were turned into the company artificer and put in the storeroom.

Q. Then the parties who came back on the train did not bring any bandoliers with them?—A. No, sir.

Q. Why did you bring those bandoliers back to Fort Brown?—A. Well, we brought everything that we had in the tent there with us. We brought all the guns and blanket rolls, canteens and haversacks, and everything that we had down there. This stuff belonged to my company, and we did not know whether it was to be accounted for—supposed it would be.

Q. You are an old soldier and we are not, and I want to get at it. Those bandoliers have to be accounted for, and they are returned to the arsenal, are they not?—A. I believe there has been no order to.

Q. I am asking you what you know about it—if that was not the custom as you understood?—A. We never had had the bandoliers before, so we knew nothing about it.

Q. Why should you have brought them back to Brownsville if they were not to be taken care of?—A. Because my idea was that they should be taken care of.

Q. Why taken care of?—A. Because all such ordnance is usually taken care of and accounted for—shipped back after being used.

Q. And you even take care of a shell after it has been used?—A. Oh, yes.

Q. Decap it?—A. Yes, sir.

Q. To be sent back to the arsenal?—A. Ours were decapped with K Company's and all accounted for on the K Company roll. We did not bring it back.

Q. Did you use to take care of all those shells even after they had been exploded?—A. Yes, sir.

Q. Decap them, and they would be prepared, as you understood, to be sent back to the arsenal?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. And the same, you understood, as to the bandoliers?—A. We never had had the bandoliers and we did not know whether they were to be expended or not.

Q. Your regiment was a pretty good regiment?—A. Oh, yes, sir.

Q. Careful officers?—A. Yes, sir; not quite so much as some of the older line regiments. You see they are a new regiment.

Q. New when?—A. At the time of the Spanish-American war this regiment was formed.

and I do not remember the time, and I do not know in what sequence they followed each other.

Q. Do you know when Baker was charged with killing this man, and by whom he was killed, and in what year the killing took place?—A. I think it was all in 1902, sir; in the fall.

Q. While you were there?—A. While I was there, sir.

Q. Have you been in any other border towns—stationed there—since you have been in the Army?—A. No, sir; not what I could call a border town.

Q. Were the rangers—the Texas Rangers, as they were then known and are now known—a regularly, legally constituted police force?—A. They were a State force.

Q. They were a State force, organized under the laws of Texas?—A. That is where the conflict of authority came in. They attempted to make arrests and exercise their functions as officers of the peace within the city, which I believe was disputed by the municipal authorities. They wanted the rangers to confine their operations to outside of the corporate limits.

Q. What arrests did the rangers ever attempt to make in Brownsville against the protests of the officials of the town?—A. I don't remember of any specific case, sir. There used to be numerous cases come up there in connection with smuggling, and I presume that the rangers would cooperate with the revenue officers. There were very few revenue officers there, scattered along the river.

Q. How many banks were there in that town when you were there?—A. I think Captain Kelley's bank, the First National, I think it was called, was the only one.

Q. The only one?—A. Yes, sir.

By Senator FRAZIER:

Q. One question. Was this man Baker tried for the offense that you refer to?—A. No, sir.

Q. Was he not tried for murder?—A. They considered it was in the line of his duty. I do not think there were any proceedings taken against him.

Q. It was justifiable?—A. Yes, sir. He was removed by the governor of the State right after that and taken out of the community and another sent in the place of him.

(Witness excused.)

(At 1.05 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Foraker, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

TESTIMONY OF HENRY WATSON.

HENRY WATSON, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please state your name in full.—A. Henry Watson.

Q. Are you in the military service of the United States?—A. A private in Company M, Twenty-sixth Infantry.

Q. Were you stationed with your company at Fort Brown in August, 1906?—A. I was there, left behind with a detachment after the company went away in August.

Q. You were left behind with Lieutenant Thompson?—A. Yes, sir.

Q. How long have you been in the service?—A. A little over fifteen years, sir.

Q. What regiments have you served in?—A. The Nineteenth, Thirteenth, Fourteenth, Sixtieth Coast Artillery, and the Twenty-sixth Infantry.

Q. Your service is now in the Twenty-sixth—your last service?—A. Yes, sir.

Q. You are there now?—A. Yes, sir.

Q. Are you serving your first enlistment in the Twenty-sixth Infantry?—A. My second.

Q. Your second enlistment in the Twenty-sixth?—A. Yes, sir.

Q. Do you remember about when your battalion left Fort Brown?—A. No, sir.

Q. It has been testified here that it was the 5th of July.—A. It was about that.

Q. Do you remember when the Twenty-fifth battalion came to take your places?—A. Yes, sir.

Q. Can you give us the date of that?—A. No, sir.

Q. How long was it after your battalion left?—A. About a month.

Q. You think something like a month?—A. Yes, sir.

Q. It has been testified that it was the 28th of July—that the Twenty-sixth left on the 5th and the others came on the 28th.—A. Yes, sir.

Q. How many men were left behind?—A. There were 40 men left in the first place, and then there were two men who were out on a surveying expedition that came and joined us afterwards for a short time and then they were sent away after.

Q. So there were 42 of you there together?—A. Yes, sir.

Q. Only one commissioned officer, Lieutenant Thompson?—A. Yes, sir.

Q. Was or was not that a detachment of 10 men from each of the companies?—A. Yes, sir.

Q. Where did you remain after the battalion left; you yourself, I mean, and the detachment from your company?—A. Remained in our own company quarters.

Q. Haven't you been told that?—A. No, sir. They are so very similar that I would not be surprised if it could be done, but I would not say for a certainty.

Q. About how many Springfield shells did you see?—A. Oh, the empty shells, you mean?

Q. Yes.—A. It would be hard to estimate, I think.

Q. Hundreds of them?—A. Well, there was upwards of a hundred, anyway.

Q. In M quarters?—A. Yes, sir.

Q. Do you know anything about the other companies?—A. I was only in L Company barracks before they were cleaned up, and there was plenty of just the same kind of ruck around there as there was in M.

Q. Which barracks is that?—A. L. That is the next one toward the east, toward the guardhouse.

Q. The one which is marked C barracks on the map here?—A. Yes, sir.

Q. That is the barracks that the Company C of the Twenty-fifth went into?—A. Yes, sir.

Q. Were you in any of the other barracks?—A. Not until just before I came away; we all went into I barracks; but they had all been cleaned. That is the further barracks.

Q. You were left with a detachment of 10 there, and your business was to police the quarters, was it not?—A. Why, yes, when we got the orders. At the time that the company went away I was on what is called "old guard fatigue." I was working under the orders of Quartermaster-Sergeant Osborn, and then when I came back at noon the sergeant told myself and another soldier that was in there to clean up our quarters.

Q. Mr. Watson, I do not want to restrict your answers at all, but we will save considerable time if you will confine yourself simply to the question that is asked. Your duty was to police these quarters with the detachment that was left, was it not?—A. Yes, sir.

Q. And there was an officer there in charge, and he inspected the quarters regularly, did he not?—A. No, sir.

Q. Never inspected them at all?—A. I don't think he inspected them at all until he did so to see if they were all right before the Twenty-fifth came in there. He came in the first place and closed the lower part of the barracks up, where the stores were.

Q. Did he close the lower part of the barracks up before they were policed?—A. We did not police that part at all.

Q. What condition was that left in?—A. Not so much disorder, because it had been cleaned up for the men to eat breakfast that morning.

Q. But this sweeping up was up in the second story, or in the barracks where the men slept?—A. Yes, sir.

Q. And you swept out the dirt and stuff? Did you sweep it up in the corner of the building?—A. No, sir.

Q. What did you do with it?—A. We put it out into the ash cans first, and then the cans were taken away.

Q. By the scavenger?—A. No, sir; taken away, I presume, by Lieutenant Thompson's orders, to be put in the storehouse. They could not leave them there, because anyone would carry them away.

Q. But after you put the stuff in the cans then the cans were emptied by the scavengers, were they?—A. Yes, sir.

Q. And the scavenger emptied those cans every day?—A. Yes, sir.

Q. Where did he empty them?—A. The usual place to empty them is away down at the further end of the garrison. There is a dumping place back of what is called the "old artillery barracks," in the river.

Q. Senator Foraker asks you to locate that place on the map. Is it below what is marked the administration building there?—A. No, sir; it is at the opposite end.

By Senator OVERMAN:

Q. Here is the magazine house [indicating].—A. It is just below the second set of barracks, the second set of officers' quarters, away up in the corner there; it is in the river just beyond that road.

By Senator FORAKER:

Q. You mean the officers' quarters, marked "16," "17," and "18?"—A. Yes, sir. Then there is a place where they dump a good deal of stuff; if there is anything of value, such as the citizens of the town can pick up, such as old clothing, or wood that they can use for fuel, a great deal of the time that is dumped on the ground there in front of this place, but the offal and such stuff from the closet that is all dumped there in the river on a chute.

Q. Dumped in the river?—A. Yes, sir.

Q. From that same locality?—A. Just the other side of the further officers' quarters.

Q. Down the river?—A. Yes, sir; down the river from here. At the time I was there, there was a plumber lived in that set of quarters, the further one.

By Senator WARNER:

Q. Now, there was ammunition also kept in what you speak of, as I believe, the old ordnance quarters, which you have mentioned in your direct examination?—A. I do not understand the question, sir.

Q. Was there ammunition kept in the old ordnance quarters?—A. The building that is used as an arsenal? Yes, sir; the ordnance storehouse.

By Senator OVERMAN:

Q. Sometimes called the magazine?—A. Yes, sir.

By Senator WARNER:

Q. What ammunition was kept there?—A. I presume almost any kind, and, any time when it was needed, to withdraw from there. I don't know positively that at this time there was any, but as a usual thing there is.

Q. You say that these boys came and asked you if there was any in this old magazine?—A. No, sir; I did not state any such thing as that.

Q. What did these boys say?—A. The boys asked if I had any extra ammunition or shells, and I asked them what they wanted them for and they said, "Why, we can sell them."

Q. There was nothing strange about that, was there?—A. They never had wanted them before, and if there was anything they could have sold they would be very apt to have asked for it. I never knew

them to want them before. They could have got them at almost any time.

Q. They could have got the ammunition?—A. Ammunition, or——

Q. How could they have gotten that ammunition at almost any time?—A. Ask almost any soldier if he had an extra round or two of ammunition and he could get it.

Q. That is what I am speaking of, because you understand that we are not soldiers, and we have to ask you about that. So that was unusual, from the fact that if they had ever asked for ammunition they could have gotten it?—A. Yes, sir.

Q. A few rounds?—A. Yes, sir.

Q. From any soldier?—A. Most any one of them that had it.

Q. No trouble about that?—A. No, sir.

Q. Then in that way I suppose this soldier would give it out of the surplus ammunition that he chanced to have, that he kept in the belt or box or whatever it was?—A. Yes, sir.

Q. That was the way it was in the Twenty-sixth, and you have understood that is the way it is in the regiments generally?—A. Yes, sir.

By Senator OVERMAN :

Q. You say that they kept ammunition and guns in that magazine house in order to draw from it?—A. Yes, sir.

Q. That is the purpose of that.—A. Yes, sir.

Q. You don't know of your own knowledge whether they had any Springfield rifles in there or not?—A. I don't know whether they were sent away or not. They might have all been there. The battalion turned in all the Krag rifles, and whether they were in the storehouse I could not say.

Q. The first Springfield rifles that were brought there, were any of them put out on the magazine house?—A. I could not say as to that; I was in the hospital at the time.

Q. But that is the usual place to put them?—A. Usually.

By Senator WARNER :

Q. Now, going back to where we were, the subject that we were talking about; I want to get a little more information about that, with reference to this surplus ammunition which was to be given to boys. Where would a soldier keep that surplus ammunition, in the boxes there upstairs?—A. Yes, sir; he might; in his locker; either that or——

Q. Just wherever it was convenient for them?—A. Yes, sir.

Q. So it would not interfere with their 10 or 20 rounds, or whatever they were supposed to have?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. And this was a common practice, as you say, in that regiment and in the Army?—A. Yes, sir.

Q. This clothing you saw, parts of old clothing also scattered around you said?—A. Yes, sir.

Q. What did you mean by "pieces of clothing?"—A. Well, you speak of a blouse as a piece.

Q. A piece of a suit?—A. Yes, sir.

Q. You did not mean torn?—A. Well, some of them were.

Q. There was always some one in charge of the quarters there, was there not?—A. When our detachment was there?

Q. Yes.—A. No, sir; there was a great deal of time that there was no one there. The sergeant had charge of the canteen, and he was the only noncommissioned officer in our detachment. There were three of the men working—one in the canteen, and two in the quartermaster's department, and the balance of us, if we were on duty—there was no one left in the quarters.

Q. And the quarters would be left open so that anybody could walk in or out?—A. Yes, sir; the doors and windows open night and day there.

Q. When you moved up into barracks 36, did you not lock the doors and bar the windows?—A. I did not; it might have been done; I do not know of my own knowledge that it was done.

Q. Did you ever go around to see?—A. No, sir. Why, yes; I know that the lower part, the hallway, of my set of rooms was not fastened up at any time.

Q. Just one other question, Mr. Watson, for my information. This surplus ammunition that the men would give away to boys, where would they get that?—A. Possibly from some that they had not expended at target practice, or on hunting expeditions.

Q. Just explain to us, please, how, in going out on target practice, they would have surplus ammunition—so that we may understand it.—A. As a usual thing ammunition is taken out in boxes. This last ammunition they had, there would be a whole lot of bandoliers strung over one man's shoulders to carry out, but each man could use what was necessary for him to use there, and if he had extra in his pockets, it would be taken away with him. We have a certain number of shots to fire, but if a gun does not prove exactly what it should, why, you were allowed other extra ammunition to try before your score is shot.

Q. It may be that I am dull about it, but I do not see yet how they get this surplus ammunition to give away.—A. Well, it is a simple thing to pick it up if he wants it.

Q. Pick it up how?—A. The ammunition is there, and anyone can use what he requires, or even extras, if he wants to pick it up.

Q. Pick it up, you mean, out of this box?—A. Out of these boxes.

Q. That is your observation as a soldier in your regiment, in the several regiments you have been in?—A. Yes, sir.

By Senator FORAKER:

Q. You said these boys said they could sell this downtown. Did they tell you where they could sell it, or what they could get for it, or anything like that?—A. No, sir; only they said they could get good prices for it.

Q. Did they name any price they could get for ammunition?—A. No, sir.

Q. You were asked whether or not the practices you have described were common to all regiments. Do you or not know anything about what the practice is in any companies except those which you have served in with respect to the use of ammunition on the target range, or with respect to the care that is taken of ammunition?—A. I had a great deal of chance to see, having been on different ranges shooting with different organizations.

Q. Now, is it not true when you get on the target range to shoot,

in target practice, that you are under the eye of an officer all the while and of a noncommissioned officer also?—A. Not at all times.

Q. Have you not certain rules and regulations which govern you in firing?—A. When you are firing for record; yes, sir.

Q. Well, I will ask you, when you are required to shoot on the target range, each man who goes up to fire is expected to fire in each instance a certain number of shots, the number of which he knows beforehand, does he not?—A. Yes, sir.

Q. Where does he get his cartridges?—A. They are issued through the quartermaster-sergeant or the artificer.

Q. One or the other who is there in charge of the ammunition to be fired in target practice?—A. Yes, sir.

Q. How many cartridges do they give him?—A. He does not always know how much firing he has to do.

Q. Suppose he is required to fire 10 rounds. How many cartridges are given him?—A. He may have to shoot two extra ones before he gets the range, before he fires for the record, what are called "sighting shots." That would be 12 rounds.

Q. Then the artificer or the quartermaster-sergeant, whoever would be there with the ammunition, would know how many to give him, and he would know how many he was to shoot before they commenced to charge him up with his number of shots?—A. Yes, sir.

Q. The number he was to shoot to get the range, and so they would give him the requisite number that he was to fire and be charged with and the extra two or three, whatever the number might be?—A. Usually he has some more besides that, because if the officer or noncommissioned officer in charge of the shooting thinks he wants a little more, wants a little correcting of the gun, he may come and take the gun and shoot some, or oblige the man to shoot some extra, changing his sights, and so on.

Q. That is the way it has been in your company?—A. Yes, sir.

Q. Do you know that there is any such rule as that in any other company?—A. Anyone that I ever saw.

Q. They do just the same way?—A. Just about.

Q. I will ask you, if a man is given 12 rounds of cartridges, as you suggested he might be in the instance you spoke of, and he uses only 10 of them, what does he do with the other two?—A. Sometimes he will stick them in his pocket and sometimes put them in the box.

Q. Is he not required, according to the rules governing target practice, to return them—all that he does not use?—A. They allow a considerable latitude, if you need any additional number or want to yourself, to use what ammunition you want.

Q. That is, if a man needs to have more than the regular amount of practice, they allow him latitude in securing cartridges?—A. Yes, sir.

Q. Don't they issue him extra cartridges in such cases?—A. They let him have what he wants.

Q. Let him take what he wants?—A. Yes, sir.

Q. But isn't he charged with whatever he takes?—A. No, sir.

Q. That is the rule in your company?—A. Yes, sir.

Q. Then if he is not charged with the specific number that he takes and does not shoot all of them, he does not have to turn them back, but can take them home and put them in a cleaning box or do

whatever he likes with them?—A. Yes, sir; that has been done a great many times.

Q. How many extra cartridges does a man accumulate in that way, according to your observation?—A. Very seldom over 3 or 4 or 5; he might possibly have 10.

Q. Suppose a man should accumulate more than that; what would be done about it?—A. Well, he would usually turn them in. They would only be a nuisance to him to have around, because when you get back into the barracks they are not supposed to have this extra ammunition there.

Q. They are not supposed to have, when they get off of the target practice back into the barracks?—A. No, sir.

Q. Not supposed to have them; so they turn them in to get rid of them? Do you not have regular inspection of arms and ammunition and quarters and clothing and everything else every Saturday?—A. Yes, sir.

Q. That is a rule of the whole Army everywhere, is it not?—A. Yes, sir.

Q. Do not your officers on such occasions inspect the lockers?—A. They never inspect the cleaning boxes.

Q. That is the place where they can accumulate some extra cartridges?—A. Yes, sir; that is generally the place where they are put, because they would not be so much in evidence there as anywhere else, because if the officer saw them he would require them to turn them in.

Q. If the officer saw them—don't they ever inspect the cleaning boxes?—A. I have never known that to be done.

Q. In your whole nineteen years of service?—A. Fifteen years.

Q. In your whole fifteen years of service. You have never served in a colored regiment?—A. No, sir.

Q. You do not know what discipline they have there, do you?—A. I have soldiered in the same posts with them.

Q. What regiments have you soldiered with—what colored regiments?—A. The Twenty-fifth.

Q. Where?—A. At Fort Brown.

Q. That is, you were there how long?—A. Three days.

Q. As a member of this detachment?—A. Yes, sir.

Q. How long after they got there before you left?—A. Part of three days; one whole day.

Q. You did not leave until after they had been there nearly three days?—A. No, sir.

Q. What did you see of them in that time?—A. I thought they were about the strictest soldiers that I had ever seen.

Q. That is, the discipline was good?—A. Yes, sir; right up.

Q. You have no interest in this Twenty-fifth Regiment, have you?—A. Do not know a member of it.

Q. Do you know how you happened to come here?—A. No, sir.

Q. You know nothing about it, do you?—A. No, sir.

Q. You simply got a subpoena and came because you were ordered?—A. I received my order from my company commander, a printed order, a copy of it.

Q. You did not know until you got here what you were to testify about?—A. No, sir.

Q. What you would be asked?—A. No, sir.

Q. Now, a little more about this Twenty-fifth Regiment. You observed that the discipline was good, did you?—A. Yes, sir.

Q. The officers seemed to have them well under control, did they?—A. Yes, sir.

Q. And their conduct, what was that?—A. As far as I could see, all right. I saw nothing wrong with the regiment in any way.

Q. Now, if an officer would discover a man on the target range misappropriating cartridges, I mean sticking them in his pocket instead of firing them, would he not call the man to account for it?—

A. Why, if the place where it was done was in that country, where there is a good deal of hunting, in all probability he would not say anything about it, because he would think the man was going out after rabbits or something of that kind, and he would be allowed to.

Q. He would rather wink the other eye?—A. It is better practice for the soldier than it would be right at the target.

Q. It is better practice for him to shoot rabbits?—A. Yes, sir; or anything.

Q. Would that be a good excuse in the Twenty-sixth Infantry for a man filching five or six cartridges out of every ten that were given to him?—A. I presume if he wanted them he would ask for them, and be allowed to take them.

Q. I am not talking about a case where he asks. As a matter of fact when he asks he can get permission, can he not, to go hunting?—A. Yes, sir.

Q. Has not the hunting business been stopped now? Do they hunt still down in that country?—A. Yes, sir.

Q. Some witness testified that it had been stopped.—A. It was not stopped with us.

Q. You still hunt? When a soldier wants to go hunting he can get a pass to go hunting?—A. Yes, sir.

Q. And he can get permission to take away whatever number of cartridges is reasonable?—A. Yes, sir.

Q. Whatever is reasonable in the estimation of the officers? He can get that permission from his company commander?—A. Yes, sir.

Q. And then when he comes back, if he has a surplus, what is he supposed to do with the surplus?—A. Supposed to turn them in.

Q. Suppose he should get a pass to go out and shoot rabbits, and take 100 cartridges by permission and shoot away only 30 or 40 of them, and come back and not turn in any, and the officer should find it out, what would be done with the man?—A. He would be court-martialed.

Q. He would be court-martialed and punished, wouldn't he?—A. Yes, sir.

Q. So that while there is some latitude, as you say, a soldier is not expected to take advantage of that and abuse any such privilege?—A. No, sir.

Q. Just so on the target range; while he may gather up a few in such instances as you have mentioned, he would not be allowed to gather and retain an unusual amount?—A. Oh, no, sir.

Q. If it was found that he was doing that without permission, surreptitiously, sneakingly, I mean, he would be punished for that, wouldn't he?—A. Yes, sir.

Q. I did not ask you anything about the people of Brownsville. Having remained behind there, and in that way having had, perhaps, some opportunity, do you know what the people of Brownsville thought about the colored soldiers coming there—whether they felt in a friendly way toward them or not?—A. All those that I heard say anything about it were very bitter because the colored troops were coming there.

Q. They were very bitter?—A. Yes, sir.

Q. Did you hear many people speak on the subject?—A. It was common talk there in the town; yes, sir.

Q. It was common talk?—A. Yes, sir.

Q. Can you tell us what the common talk was, not the expressions of the men word for word, but the substance of what was said there?—A. I can give you one that I remember distinctly; it was the Sunday before the negro troops came. I was in the White Elephant saloon, and they had fixed up a temporary bar in one of the gambling rooms.

Q. Are the saloons open there on Sunday?—A. The back doors. Sometimes, part of the year, they are wide open, and then again they will shut them up just before election.

Q. There was no election coming on then, was there?—A. No, sir; not that I know of. The back door was open, though.

Q. This was Sunday, and the back door was open to the White Elephant saloon?—A. Yes, sir.

Q. And you were in there. Who else was in there?—A. Oh, the usual amount of Mexicans playing monte there.

Q. What did you hear?—A. There were two Mexican bartenders, and I said, "You do not expect a man is coming in to drink at that bar, such a looking thing as that; that is not good enough for a hen-coop!" "Well," he said, "we won't need it long; the niggers won't stay there long."

Q. Who said this?—A. There are two Mexican bartenders; I don't know their names.

Q. There were two Mexican bartenders in the White Elephant saloon?—A. Yes, sir.

Q. Who was the proprietor of the White Elephant saloon?—A. I believe it is one or both of the Crixell brothers.

Q. A man by the name of Crixell?—A. Yes, sir.

Q. One or two of them. And then these bartenders—neither one of the bartenders was a Crixell?—A. No, sir; I believe not.

Q. You heard that remark made of the shorter of the two bartenders?—A. Yes, sir.

Q. They were both Mexicans?—A. Yes, sir.

Q. To whom did he make that remark?—A. To me.

Q. To you?—A. Yes, sir.

Q. I did not understand what it was. Tell me again what he said.—A. I asked him if he expected a man to come in and drink at that bar—it was just some dry goods boxes with a little bunting nailed around on top—and he says: "Well, we will not want it for long; those niggers will not stay here," he says; "they will not stay here long," or words to that effect.

Q. Did you hear anybody else make any remarks of that kind there or at any other place or time?—A. I heard a great many, but I can't remember anybody else specifically except this one.

Q. Did you hear any friendly remarks made about their coming—anybody expressing pleasure?—A. Not one.

Q. Not one. And the general talk was unfriendly?—Oh, very.

Q. Very unfriendly?—A. Very unfriendly.

Senator FORAKER. That is all.

By Senator WARNER:

Q. I think in answer to my question, so that we will have it understood, you said that when a soldier accumulated more than 25 of these cartridges he would turn them in, or that that would be with him whether he would turn them in or not?—A. Yes, sir.

Q. And in answer to Senator Foraker you said that when he went out with 100 cartridges and only shot 25 times, it would be with him how many he would turn in. I have that correctly, have I not?—A. Yes, sir.

Q. Now, about this bar. The saloon was open on Sunday, and you were in the saloon on Sunday?—A. The back bar; yes, sir.

Q. And the back bar was open for you and others on Sunday; open for you and others who wanted to patronize the saloon on Sunday?—A. Yes, sir.

Q. How long had you been in there?—A. Well, I wasn't there only a few minutes.

Q. Were you in any other saloon that day?—A. No, sir; not that day; down in the market, there is a saloon down in the market, and I went in there.

Q. You went in there to do your marketing?—A. No, sir.

Q. You just went in. Well, as to this remark that you heard about this extra bar that had been put up there, you thought that was a kind of a rough place for men to drink at?—A. Yes, sir.

Q. And you made that remark?—A. Yes, sir.

Q. And he said that they wouldn't be there for long?—A. Yes, sir.

Q. And that they would soon go away?—A. Well, I don't know as I can quote just exactly the words that he said—he used very good English, too—but the effect of the words was that they wouldn't have to use this bar long because the negroes wouldn't stay there.

Q. They would not stay there long; and that is the only specific instance you can give?—A. I was talking the same day with Mr. McDonnel, the carpenter, on the same subject, but the tenor of what he said was about the same as that of what the Mexicans said; but I don't just remember the conversation. I remember that the talk was very unfriendly toward the negroes.

Q. Mr. McDonnel was a carpenter, was he?—A. Yes, sir.

Q. Where did he live?—A. I believe that he boarded somewhere there.

Q. Where did you see him?—A. I saw him on Elizabeth street, nearly in front of the Ruby saloon.

Q. What is his given name?—A. I don't know, sir.

Q. Did you and he go into a saloon?—A. No, sir.

Q. Had you been in?—A. No, sir.

Q. Had you been drinking this day?—A. No, sir.

Q. Do you drink?—A. Yes, sir.

Q. In the White Elephant at the time you heard this remark?—A. Yes, sir.

Q. You just went in to look on?—A. No, sir; I had business in there.

Q. What other business did you have in there?—A. I had to go to the rear. I was under treatment at the hospital, and had to go very frequently, which was the reason I went that time. I know that I wasn't drinking anything, because I was under treatment for four months at the hospital, and during that time I didn't drink anything.

Q. And what was it that the carpenter, McDonnel, said to you?—A. I couldn't remember just what he said. As I was coming up the street he came across, and we talked about the negroes coming there, and I know his talk was very unfriendly toward them. He hoped that they would stay away—would keep away.

Q. He regretted that the Twenty-sixth was going away?—A. I don't remember his saying anything to the effect that he regretted that the Twenty-sixth was going to leave, but he regretted that the negroes were coming.

Q. Was it not that he regretted that the negroes were going to take the place of the white soldiers?—A. Yes, sir; that was the tenor of it.

Q. Was not that the substance and tenor of it?—A. Yes, sir.

Q. Of that talk?—A. Yes, sir.

By Senator FOSTER:

Q. Mr. Watson, how many applications were made by children to you for cartridges?—A. Two boys—Mexican boys—asked me.

Q. What kind of boys?—A. One of them, I think, is part white and part Mexican and the other was a Mexican boy.

Q. Did they speak English?—A. Yes, sir.

Q. Do you know of any other applications being made by boys for cartridges—applications being made by boys to soldiers?—A. No, sir.

Q. Did they describe the character of the cartridges they wanted?—A. They said they didn't care which it was; the shells were just as good as the cartridges. They didn't say which.

Q. Did they ask for any particular kind of shell?—A. No, sir.

Q. Did they say they wanted a Springfield shell or a Krag shell?—A. Either one, or both.

Q. Either one. Either a Springfield cartridge or a Krag cartridge?—A. Yes, sir; but they did not want the pistol cartridge.

Q. They did not want the pistol cartridge?—A. No, sir.

Q. Did you give them any?—A. No, sir; I had nothing but my ten.

Q. Were there any lying around there loose at that time?—A. Not at that time; no, sir.

Q. This was how long after the Twenty-sixth had left?—A. It was within four or five days of the time of the arrival of the Twenty-fifth; just a few days, because we were down in I Company barracks then.

Q. Did you see any of the Springfield cartridges lying around loose in the rubbish?—A. Just when we cleaned up; the Springfield—nothing but the shells.

Q. Nothing but the shells?—A. Yes, sir; no cartridges.

Q. Is it not the duty of the officers to take care of the shells?—A. The quartermaster-sergeant and the artificer are the ones.

Q. If these shells and cartridges were lying around there loose, was it not your duty to notify the officers?—A. Well, in a small amount like that it would never have been bothered with anyway. The company had gone, and they had already made the returns for

that year of their empty shells. I suppose actually it was my duty.

Q. What finally became of those shells and cartridges that you saw lying around there loose?—A. I couldn't tell you, sir.

Q. Were they swept up among the rubbish?—A. The shells were.

Q. They were then?—A. The cartridges were placed upon a shelf.

Q. The shells were swept up among the rubbish and put in the cans then, were they?—A. Yes, sir.

Q. And the scavenger came and removed them some distance and threw the whole thing in the river?—A. Whether he dumped it in the river or dumped it on the ground, on the dumping place on the ground, I don't know; I could not say. Sometimes they dumped them one place and sometimes another. That is, the dry stuff was generally dumped on the land if there was anything that the townspeople could use.

Q. Was there anything that the townspeople could use in those cans?—A. Oh, yes, sir; bits of clothing and wood, and boxes, and any odds and ends.

Q. How large are those cans?—A. They are about 3 feet high and about 28 inches, I should judge, in diameter.

Q. Did you see any other children there trying to get cartridges?—A. Those were the only ones I had knowledge of trying to get cartridges. There were plenty of children there all the time.

Q. I am speaking of those trying to get cartridges?—A. No, sir; this was the only instance I know of.

Q. And upon that occasion they got none, so far as you know?—A. So far as I know; no, sir.

Q. I was absent when you were examined by Senator Warner, and do not know if he asked you how many bandoliers you saw there?—A. I think probably there were between 20 and 30.

Q. Had those bandoliers been used?—A. Yes, sir.

Q. Did you examine them?—A. When they were cleaning them up it would be very easy to see if they had cartridges in them. There were no cartridges in the bandoliers.

Q. And were they in condition to be used by the soldiers?—A. I don't know. When the bandoliers come to us the ammunition is in them, and you pull a thread to open them, and then we do not fill them again. If they ever are filled again they have to go to the arsenal, and we do not know if they ever get there.

Q. I understand that you have been examined on that point already, and I will not continue the examination.

By Senator PERRUS:

Q. If a man happened to get out of his regular supply of ammunition—of shells—cartridges—was there any difficulty in his getting his number made up from other people?—A. I don't think so, almost any time, but what he could do it, except right when we got the new guns; at that time there would be difficulty because there were no extra ones among the men—that is, the ammunition for these new guns—but of the old ammunition, almost any time, I believe. If he does lose them through any fault of his own, he is charged up with them.

Q. But if he had a few—say, three or four or five—less after he had been at that place a month, would there be any difficulty in his getting from his comrades enough to make it up?—A. Well, it is

just possible. But if he had been only there for a month, as you say, at the new post, it would be hardly probable, because they don't usually want them to load themselves down with any extra ammunition, because if it is necessary it will be issued to them.

Q. But if one soldier was missing a few cartridges, he could very easily, ordinarily, get up his supply?—A. Ordinarily; yes, sir.

By Senator BULKELEY:

Q. Watson, who had charge of this ordnance storehouse?—A. The post ordnance sergeant, sir.

Q. Were you ever in it?—A. Yes, sir.

Q. What did you see in it?—A. Well, there was ammunition boxes of all grades, cannon, and horse furniture, and such things as that.

Q. Was there anything in the boxes?—A. I don't know, sir.

Q. Were there any guns—any arms—besides the cannon in there?—A. If there was, they were in boxes.

Q. You did not see them?—A. No, sir.

Q. How did you happen to go in there?—A. There was a carpenter working for the quartermaster, and there was a gun they used for firing morning and evening gun.

Q. That is, a cannon?—A. Yes, sir; and it was my duty to frame a pedestal to put it on; so that we went in there to get the dimensions.

Q. So that you never saw any guns in there at all?—A. No, sir; I never seen any there. There might have been any quantity. There was gun cases in there.

By Senator OVERMAN:

Q. Gun cases?—A. Yes, sir.

By Senator BULKELEY:

Q. You saw gun cases?—A. Yes, sir.

Q. Were they open?—A. No, sir.

Q. You never examined them?—A. No, sir.

Q. So that you do not know that there were any guns in there?—A. No, sir.

Q. What else was in there?—A. There was some old-fashioned fieldpieces in there.

Q. These ammunition boxes, you do not know whether they were empty?—A. They were empty or had shells and ammunition in them; I don't know, sir.

Q. (Continuing.) Or had anything in them?—A. No, sir; I do not know.

Q. Was the door of this place kept locked?—A. Yes, sir.

Q. Who had the key?—A. The orderly sergeant.

Q. So that when you went in there you had to go in with his permission, did you?—A. You had to go in with him.

Q. He had to unlock the door?—A. Yes, sir.

Q. You had no access to it?—A. No, sir; not at all.

Q. Did you ever take any ammunition out of there?—A. No, sir.

Q. Or put any in?—A. No, sir.

Q. Did you ever put any empty boxes in there?—A. No, sir.

Q. Did you ever put anything in there?—A. No, sir.

Q. Did you ever take anything out but this cannon?—A. No, sir; I didn't take that out.

Q. You didn't take that out?—A. No, sir; I just took the dimensions of the circle.

Q. Have you any reason to believe that there were any guns in there except those cannon that you speak of which you saw?—A. I had reason to suppose there were, because they are usually kept there.

Q. You never saw any put in there, did you?—A. No, sir. I know what other ordnance storehouses do contain usually, but I never saw them in there.

Q. You never saw them there?—A. No, sir.

Q. So that, other than seeing some boxes in there, you do not know that there was anything in there in the way of firearms or ammunition?—A. No, sir.

By Senator OVERMAN :

Q. The boxes you saw usually held guns, though, did they not?—A. That is what they were made for.

Q. And the ammunition boxes had ammunition in them usually?—A. Usually; yes, sir.

By Senator BULKELEY :

Q. When you moved from one place to another you usually carried your guns or were they carried in boxes?—A. Surplus guns were carried in the gun cases, but each man carried his own.

Q. Were those surplus guns distributed to companies? Did the company officers have those guns that were assigned to companies?—A. Sometimes they would at target practice, or for hunting purposes, or something of that sort.

Q. Did the company have a certain number of guns assigned to them—a full complement?—A. A full company has 65 guns.

Q. Suppose you only had 50 men?—A. The rest of them would be put in the company's storeroom.

Q. They would be in the company's storeroom?—A. Yes, sir; in boxes.

Q. And not down in this ordnance storehouse?—A. No, sir.

Q. So that their surplus guns would not be in the ordnance storehouse?—A. There would be some; as we turned in our Springfields they would be turned in to the ordnance officer there, and they might lie there some time before they are shipped, until he gets direct orders for them; and while the new Springfields came they might have went to the storehouse.

Q. Until they were distributed to the companies?—A. Yes, sir; until they were distributed to the companies.

Q. After they were distributed were the full complement, do you know, ordinarily distributed to the company commander for a full company?—A. Yes, sir.

Q. For instance, you are entitled to 65 men in your company, and your company commander would have 65 guns allotted to him?—A. Yes, sir.

Q. And if you had only 50 men you would have 50 guns in the hands of the men and 15 extra guns?—A. Yes, sir.

Q. What would the company commander do with those 15 guns?—A. They would be put in his company storeroom, that the sergeant and the artificer have keys to.

Q. So that in a place like this there would not be in the ordnance

storehouse any of the surplus guns?—A. No, sir; none of the surplus guns—none of the company guns.

Q. If you were changing, temporarily they might be?—A. Yes, sir.

By Senator OVERMAN :

Q. In shipping guns do they not ordinarily ship more than the complement for each company?—A. No, sir; each company commander makes requisition for the required number, and it sometimes happens that one of these guns or more are disabled in some manner and has to go to the ordnance department to be repaired, and he has it put up in a box—one or more that he has—and it is turned over to the ordnance sergeant, and it may lie in his storeroom some days until the ordnance officer ships it, and then when it comes back it goes to the same place until it is turned over to the company commander again.

By Senator BULKELEY :

Q. You had four companies, did you?—A. Yes, sir.

Q. You were all entitled to 65 guns to the company?—A. Yes, sir.

Q. That is the full complement?—A. The full complement; yes, sir.

Q. All those guns would be in the possession of company commanders?—A. Yes, sir.

Q. They were responsible for them?—A. Yes, sir; responsible for them.

Q. And there would be no other guns in the post, would there?—A. There might be.

Q. Do you know whether there were or not?—A. No, sir.

Q. You do not think there were or you do not know?—A. I don't know, sir.

Senator OVERMAN. There might be?

Senator BULKELEY. Yes.

The WITNESS. Any officer can get a gun from the Ordnance Department, if he makes a requisition for it, for his own use, or for practice, or anything.

By Senator BULKELEY :

Q. What I mean is, there was no surplus quantity of guns in that post, so far as you know?—A. As far as I know, no, sir.

By Senator FORAKER :

Q. When guns are shipped from an arsenal they are shipped to the post commander?—A. Yes, sir.

Q. And then they are distributed by him to the several companies?—A. Yes, sir; they are distributed by him to the companies.

Q. There are just enough shipped to the post to supply each company, to fill the requisition?—A. Yes, sir.

Q. And if each company has made a requisition for 65 guns, that number is issued to that company?—A. Just exactly.

Q. And when they have only 50 men there would be 15 extra guns?—A. Yes, sir.

Q. And they will be put in the custody of the quartermaster-sergeant?—A. Yes, sir.

Q. And put in cases and put in a storeroom?—A. Yes, sir.

Q. And they are not turned back to the ordnance storehouse?—A. No, sir.

By Senator OVERMAN :

Q. You say that 65 guns to the company are sent upon requisition?—A. Yes, sir.

Q. And those guns are sent to the ordnance officer?—A. Yes, sir.

Q. And he puts them in the ordnance storehouse and issues them to the men?—A. To the company commander.

Q. Suppose the company commander should make requisition for 65 guns and did not have but 50 men, would not the extra guns be left in the ordnance storehouse?—A. No, sir; he would get the whole 65 guns from the ordnance storehouse, and then he would issue what he needs to the men, and the rest would be left in the company's storeroom. The company commander gets them in the original packages.

Q. Were any requisitions made for extra guns at any time?—A. Yes, sir; if he was filling out a company of 65 men, 65 would be all he had; but if he should make a requisition and get them—if he had any reason—he would have to supply a reason for having them.

By Senator BULKELEY :

Q. He would be responsible for whatever was issued to him, just the same as for the 65?—A. Yes, sir.

Q. He would be responsible for whatever number he made the requisition for and received?—A. Yes, sir.

Q. And he receives those in his own charge; he does not trust those to the ordnance officer?—A. No, sir; never; but they come to the post ordnance officer, always. He receipts for them to the railroad.

Q. He is a commissioned officer?—A. Yes, sir; and there is a noncommissioned ordnance officer also.

Q. Who was ordnance officer at the post?—A. Any enlisted man is likely to be detailed as ordnance officer.

Q. Lieutenant Thompson was post ordnance officer?—A. Yes, sir.

Q. It has been testified that Sergeant Hopkins usually had charge of that storehouse.—A. Yes, sir; he was the ordnance sergeant.

Q. He had charge all the time?—A. Yes, sir; he is supposed to remain there.

Q. He is there now, is he not?—A. I don't know whether he is or not.

Q. He is supposed to be there?—A. If the post is abandoned, he would be shipped to some other post. He would have no duties there now.

Senator BULKELEY. That is all.

By Senator FRAZIER :

Q. Did I understand you to say that in returning from the target practice you brought all the bandoliers that the entire command had used down there in your wagon, or the wagon in which you traveled?—A. I brought back all, or nearly all, the bandoliers of my detachment.

Q. All that you knew of?—A. Yes, sir.

Q. What was done with those bandoliers when you reached the post?—A. I gave them to Schreiber, the company artificer, and he says, "What did you bring those back for? We don't want them; we have more now than we can take care of." Then he threw them under the stairway there in the barracks.

Q. That was the artificer of your company?—A. Yes, sir.

Q. What was done with the other companies' bandoliers?—A. That the other companies had?

Q. Yes.—A. He had them boxed up. He turned them over to the ordnance officer some time ago—a few days ago.

By Senator FORAKER:

Q. What was it they boxed up? My attention was called away for a moment.

The WITNESS. The bandoliers.

By Senator FRAZIER:

Q. When you went the last time to practice, or, rather, to the target practice at the range—

Senator WARNER. At Point Isabel.

Q. (Continuing.) Did you say that the ammunition for the new Springfield rifle was carried in bandoliers on the shoulders of the soldiers?—A. Yes, sir.

Q. It was carried down there that way?—A. It was carried from the tents where we had our camp out to the target range.

Q. Out to the target range?—A. Yes, sir.

Q. Then how was it distributed after you got to the target range?—A. Each man would take a bandolier and shoot what was necessary.

Q. Each man would take a bandolier and shoot as much as he pleased out of it?—A. What was required of him.

Q. Then he would keep the bandolier, or the balance of it, if he wanted to?—A. Yes, sir.

Q. You say shooting at rabbits is better practice, really, than shooting on the target?—A. Naturally, it would be.

Q. And it was encouraged there at Fort Brown among the men?—A. Yes, sir; there were a number of times when the men went out on hunting pass.

Q. And any soldier could go, that got a pass to go hunting; and you would give him all the ammunition he wanted?—A. He would have to ask for a hunting pass.

Q. Yes; and then they would give him all the ammunition he wanted?—A. Yes, sir.

Q. And when he returned he accounted for it or not, as he pleased?—A. If he had any amount he would usually turn it in.

Q. That was with him?—A. Yes, sir.

Q. So that if he had a surplus it was easy for him to keep it in his pocket there?—A. Yes, sir.

By Senator FOSTER:

Q. What are the duties of the artificer?—A. He takes care of extra guns and ammunition, decaps the shells when they come from the target range; he marks the boxes at times when companies are moving, and, in fact, repairs spring doors and windows, and locks upon the doors, about the barracks.

Q. What are his special duties at target shooting? Is not his principal duty there decapping shells?—A. Yes, sir.

Q. Has he anything to do with the distribution of cartridges or ammunition?—A. He usually, under direction of the quartermaster-sergeant, sends out so many boxes or so many bandoliers, or whatever is necessary, what the men are going to shoot that forenoon or afternoon; and then when the empty shells come back he decaps them and packs them in cases and counts them over, so that he knows just how many he is shipping out.

Q. Is not that his principal if not his only duty at target shooting, to gather up the empty shells and clean them and decap them?—A. Yes, sir.

Q. What other duties has he?—A. If there is a broken gun and he can repair it—

Q. To repair broken guns?—A. Yes, sir. If any of the small parts are broken or gone, he has an extra lot from which he can repair the gun. If a gun is broken in any way so that he can not repair it, he has to box it up and mark it and the company commander has it shipped to the arsenal.

Q. But so far as the ammunition is concerned he has more to do with gathering the shells and cleaning them than with the distribution of the cartridges, has he not?—A. He has very little to do with the gathering of the shells, because, as a usual thing, when they get done with a day's shooting there is a detail of three or four men who start in at the 200 yards and go back over the range and pick up these shells. Generally they have a bag or something there in which they pick them up, and turn them in to the artificer.

Q. And he decaps them?—A. Yes, sir.

Q. Are there many rabbits around Brownsville?—A. Yes, sir.

Q. You find them almost anywhere, outside of the town I mean?—A. Yes, sir.

Q. What kind of a country is that? Is it being cultivated, or is there a good deal of woodland there?—A. Largely chaparral woodland.

Q. What is this chaparral?—A. It is mesquite and hackberry.

Q. Mostly brush?—A. Yes, sir.

Q. Are there any larger trees?—A. There are some large trees.

Q. What sort of big trees are there?—A. Hackberry mostly.

Q. And, then, there is this chaparral?—A. Mostly; yes, sir.

Q. Is there any other kind of game there?—A. Oh, yes, sir.

Q. You are allowed when you go out to shoot any kind of game?—A. Yes, sir; turkey and deer and quail.

Q. That kind of country is particularly adapted for rabbits?—A. Yes, sir.

Q. Jack rabbits?—A. Yes, sir; sometimes.

By Senator FRAZIER:

Q. Buck rabbits?—A. Jack rabbits.

Q. Do they not have buck rabbits down there?—A. Yes, sir; and jack rabbits, too.

By Senator FORAKER:

Q. I understood you to say in answer to Senator Frazier the cartridges are carried to the target range on the backs of men?—A. Yes, sir.

Q. That is, from Brownsville?—A. No, sir; just from the tents of the camp to the target range.

Q. How are they carried to Point Isabel?—A. Mostly in boxes.
(Witness excused.)

At 3.35 o'clock p. m. the committee adjourned until to-morrow, Tuesday, March 19, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, March 19, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

Senator FORAKER. I desire to put in evidence the testimony of Captain Macklin and Lieutenant Lawrason, as it appears in the printed record of the Penrose court-martial, and as soon as I can get it, the testimony of Mr. Grier. I have subpoenaed Mr. Lawrason to come before the committee forthwith.

Senator WARNER. I suggest that the testimony of Lieutenant Lawrason before the Penrose court-martial ought to be offered here when he comes, so that his testimony can all go in together.

Senator FORAKER. I want to put it in now, so that it can be printed in our record.

Senator FRAZIER. We have it in a different form.

Senator FORAKER. I know, but I thought if we had it in our own record we would have it in more convenient form. I want to use certain statements made there by him on which to cross-examine these officers. If there is no objection, I will offer in evidence, so that it may be printed in our record at this point, the testimony of Second Lieut. George C. Lawrason, Twenty-fifth Infantry, as given in the record of the Penrose court-martial at Fort Sam Houston, part 2 of that record, page 484.

Senator PETTUS. Why not put in that whole record all at once?

Senator FORAKER. I did not know but somebody might object to it. I thought I should like to have the record of Lieutenant Lawrason's testimony in our record where I could refer to it conveniently.

Senator PETTUS. I do not think a piece of a document ought to be put in.

Senator FORAKER. I offer all the testimony of this witness. He is the company commander of the only company that is affected by this report of the microscopic examination.

Senator PETTUS. Unless there is some reason shown, I shall object to the piece of a document.

Senator FORAKER. The only reason I have is that it is testimony that has been taken under oath. He has been examined and cross-examined, and has been examined on the point that is directly raised by this report. The report sets forth, as I understand it, that the results of the investigation made by these officers at the arsenal indicate that four guns out of B Company were used in firing the shells which were picked up in the streets of Brownsville; and two of those

guns, according to this report, were never issued to the men, and were therefore, as the Secretary of War says, or at least should have been, in the possession and under the control of the quartermaster's sergeant. The quartermaster's sergeant has already been called, and he has testified fully on that point. Now Lieutenant Lawrason, before the court-martial, has also testified on that point, and before these officers come I want this record of Lieutenant Lawrason's testimony before me. If I had Lieutenant Lawrason here I would not care for it, but I think this ought to be in the record, as I shall want to ask these officers some questions based on what he has said.

Senator PETTUS. I shall move at the proper time to put it all in.

Senator FORAKER. I do not know whether anybody wants to put in all this record of the Penrose court martial. I have no objection. It is all before us in a certain way, and I have no objection to the whole testimony going in for whatever it may be worth; but it would very greatly increase the volume of our record. I do not want to press the point if the Senator objects.

Senator PETTUS. I object to offering a piece of a document.

Senator FORAKER. No; I offer all his testimony.

Senator PETTUS. I understand that, but it is only a piece of the document itself.

Senator FORAKER. Well, I do not understand that the complete testimony of a witness, given on the trial of a cause, is a piece of a document. It is all that he has to say on the subject about which we are making an examination at this time. Other witnesses have testified on the same subject.

Senator PETTUS. Oh, I know we are not pursuing any legal rule as to the testimony. We have testimony here that is four times hearsay.

Senator FORAKER. Yes, that is true, but that does not apply to what was taken before the court-martial, because they observe the rules of evidence and the testimony has been very carefully taken. There is no hearsay testimony in the evidence of Lieutenant Lawrason. That was all ruled out, in so far as any was offered.

Senator OVERMAN. I understand that you want this in our record for your own convenience?

Senator FORAKER. I want it for my own convenience. I do not suppose it will be necessary to reprint as a part of our record all the testimony taken before that court-martial, though I have no objection to its being offered for what it may be worth and being printed as a separate document in its entirety; but I wanted the testimony of Lieutenant Lawrason in our volume. The record is getting to be a pretty big book to carry around, and I do not want to have to carry two books with me. It can not do any harm. I can turn to the other book and cross-examine these officers with respect to the matter suggested by Lieutenant Lawrason's evidence before the court-martial.

Senator PETTUS. Has the committee any information as to when that court-martial is likely to terminate?

Senator FORAKER. Well, nobody knows that, although they are pretty well along with the testimony for the defense. I should think they would get through in a week or two perhaps. I do not know just how long they will be. I am not advised.

Senator WARNER. Without making any objection, suppose that for the present we let the matter rest until Lieutenant Lawrason comes.

Senator FORAKER. The only thing is that if I offer it to-day, it will be printed and I can have it to-morrow, and I shall not have to be carrying around two books.

Senator WARNER. It is printed now.

Senator FORAKER. I know it is, in a separate document. I keep our own record complete, and this other comes to us in installments.

Senator OVERMAN. When do you expect to have Lieutenant Lawrason here?

Senator FORAKER. I can not tell. I issued a subpoena for him. He is at Fort Sam Houston.

The CHAIRMAN. Do you wish to have placed in the record this telegram which has just come from the War Department?

Senator FORAKER. Yes; I should like to see that go in.

The CHAIRMAN. The telegram is as follows:

(The commanding general of the Department of Texas repeats to The Adjutant-General at Washington a telegram received from one of the department's recruiting officers.)

SAN ANTONIO, TEX., March 18, 1907.

THE ADJUTANT-GENERAL,
War Department, Washington, D. C.

Following received: "Galveston, Tex., March 17. Adjutant-General, Department of Texas, San Antonio, Tex.: D. C. Gray story all fake. Gray has been employed here continuously for seven years; never been in Army. Report and affidavits mailed you to-morrow. Advise chief Hay this in answer his wire to chief of police. Return to Houston to-morrow. Chamberlain."

McCASKEY, Brigadier-General.

Senator FORAKER. I feel a little disappointed that Senator Pettus should object to this testimony of Lieutenant Lawrason going in evidence now formally.

Senator PETTUS. I do not object to this whole document going in; I object to one piece of it.

Senator FORAKER. There is much in the record that has no relation to this matter about which I want to cross-examine these officers, who will testify concerning the examination of these rifles and shells.

Senator WARNER. I do not think it is vital at all that it should be printed in our record.

Senator FORAKER. It is not vital; it is a matter of convenience.

Senator PETTUS. So far as I have seen, there is no evidence to show that this is the testimony taken at the court-martial.

Senator FORAKER. It is sent to us by the War Department officially, and it is certified by the Judge-Advocate-General, who is prosecuting the court-martial proceedings.

The CHAIRMAN. In examining these other witnesses you will have this before you. You have it in print.

Senator FORAKER. Yes, I can do that. It is only a matter of convenience. I did not suppose there would be any objection.

Senator BULKELEY. Why could you not put in the whole record and ask to have that part printed which you desire in connection with this report?

Senator FORAKER. Senator Warner and I have had some conversation, without, as I understand it, reaching any definite conclusion, as to looking over this testimony with a view to determining whether or not we can shorten our own proceedings by taking what has been tes-

tified to in the other proceedings, for whatever it may be worth, without bringing the witnesses here. I do not know what the ultimate decision will be about that. All these witnesses have been examined in open court, and subject to the rules of evidence, which the record shows were very rigidly enforced. I doubt, if we had them here, there would be any material additional development on either side, to what was brought out there.

The CHAIRMAN. You have not looked this record over yet?

Senator FORAKER. We have not had time to look it over thoroughly. Does Senator Pettus still object? I only wanted to put this in at this time, so that it might be printed, so that we might have it in the record to-morrow morning. I can not conceive how it is of any advantage or disadvantage to anybody to have it here, except as I have suggested, it makes it a little more convenient for reference. I will, however, let the matter go over until to-morrow.

The CHAIRMAN. I take it, gentlemen of the committee, this very important report having come in yesterday, and being printed for the first time this morning, you all want to study the report before you proceed, and if we adjourn until to-morrow as a committee, the members of the committee, I am well aware, will all be deeply engaged in the study of this testimony, and we shall be making just as rapid progress as we should if we sat here and discussed it together, up to a certain point. So I think we shall lose no time by adjourning.

At 11.30 o'clock a. m. the committee adjourned until Wednesday, March 20, 1907, at 11 a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, March 20, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

On account of the nonarrival of witnesses the committee adjourned until Friday, March 22, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, March 22, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Foraker, Bulkeley, Warner, Pettus, Foster, Overman, and Frazier.

The chairman laid before the committee the following correspondence:

WAR DEPARTMENT.
Washington, March 21, 1907.

MY DEAR SENATOR: I inclose herewith a letter from Brigadier-General Crozier, Chief of Ordnance, with reference to the numbers of the guns assigned to the men of B, C, and D Companies of the Twenty-fifth Infantry on the 13th of August. The statements in my last letter were based upon lists forwarded by

the officers of these companies showing the numbers of guns assigned to the men of the three companies. It now appears from the letter of General Crozier that on the face of these lists there were certain errors, arising probably from mistakes in transcribing from the property books of the three companies. In order to remove the possibility of error I have ordered the property books of all three companies sent to this Department, and I presume they will arrive in a day or two. It will probably be possible from them to correct the errors apparent on the lists as pointed out in the letter of General Crozier. It will be observed that this does not affect in the slightest the conclusions of Lieutenant Hawkins as to the numbers of the guns from which the cartridge shells found on the streets of Brownsville were discharged. The lists of the gun numbers as assigned to the men were not sent to Lieutenant Hawkins and were never in his possession. This matter only affects the question of the custody of those guns and the names of the enlisted men of the company to whom they were assigned, if to any of them.

I inclose copies of the telegrams sent by The Adjutant-General by my order in respect to the property books of the three companies and the reply of the commanding officer. I also inclose the original lists transmitted by Major Penrose containing the errors pointed out by General Crozier.

Very sincerely, yours,

WM. H. TAFT.

HON. FRANCIS E. WARREN,
Chairman Committee on Military Affairs, United States Senate.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ORDNANCE,
Washington, March 21, 1907.

The SECRETARY OF WAR.

SIR: 1. In obedience to instructions from The Military Secretary, Maj. C. W. Penrose, Twenty-fifth Infantry, forwarded to him on January 30 last lists of the names of the enlisted men of Companies B, C, and D of the Twenty-fifth Infantry, who were discharged by Special Orders, No. 266, series of 1906, with the number of the rifle assigned to each. These lists, upon examination and by comparison with the rifles which had been shipped to these companies from the armory and had been received back there, have been shown to embody the following errors:

"In the B Company list rifle No. 46266 is reported as having been assigned to two different men, namely, Private Shepherd Glenn and Private Frank Jones.

"Rifle No. 41009, reported as having been issued to Private Ernest English, had not been issued to any company of the First Battalion of the Twenty-fifth Infantry, nor was it received back at the Springfield Armory from that battalion.

"In the C Company list rifles No. 48951 and No. 5172, reported as having been issued to Corpl. John H. Hill and Private August Williams, respectively, had not been issued to any company of the battalion, nor were they received back at the Springfield Armory from the battalion.

"Rifle No. 51951 is reported as having been issued to two different men, namely, Private George W. Harris and Private John W. Lewis.

"Rifle No. 40892 is reported as having been assigned to two different men, namely, Private Robert James and Private Thomas L. Moseley.

"Rifle No. 54086 is reported as having been assigned to two different men, namely, Private John T. Hawkins and Private James A. Simmons.

"In the D Company list rifles No. 41224 and No. 42211, reported as having been issued to Sergt. Walter Adams and Private Taylor Stoudemire, respectively, had not been issued to any company of the battalion, nor were they received back at the Springfield Armory from it.

"Rifle No. 49549 is reported as having been assigned to two men, namely, Quartermaster Sergt. Thomas J. Green and Private John Green."

2. With reference to the rifles of B Company, one of the guns which the report of Lieutenant Hawkins states as having been identified as one from which some of the cartridges of which the shells were picked up at Brownsville were discharged, was No. 41019, which, by not appearing in the B Company list of rifles issued to the men, was concluded as having been in the company store-room.

3. With reference to the C Company list, rifles Nos. 55157 and 49026, supposed by reason of their not appearing in the list of rifles issued to men of that company to have been in the company storehouse, are among those which were reported from Springfield to have been hacked and marred, as with a dull ax or hatchet.

Very respectfully,

WILLIAM CROZIER,
Brigadier-General, Chief of Ordnance, U. S. Army.

[Telegram.]

THE ADJUTANT-GENERAL'S OFFICE,
Washington, March 14, 1907.

COMMANDING OFFICER,
Fort Reno, Okla.:

Send to this office immediately property books of Companies B, C, and D, Twenty-fifth Infantry, and any other records that may be necessary to show what man or men between November 30, 1906, and January 30, 1907, had possession of each of the rod bayonet rifles issued to those companies about November, 1906, and turned in during January, 1907. It is desired to account for each of these rifles by number and to show whose hands it went into during entire period in question. Acknowledge receipt and report action by telegraph to this office.

By order Secretary of War:

AINSWORTH,
The Adjutant-General.

[Telegram.]

FORT RENO, OKLA., *March 15, 1907.*

THE ADJUTANT-GENERAL, U. S. ARMY,
Washington, D. C.:

Property books Companies B, C, and D, Twenty-fifth Infantry, forwarded this date by registered mail. No further records in companies relative to possession of rifles can be found. As these books contain the present property accountability of companies, their return as soon as convenient is requested.

CAREY, *Commanding.*

WAR DEPARTMENT,
Washington, March 20, 1907.

MY DEAR SENATOR: I have the honor to inclose herewith a report to me by Brigadier-General Crozier, Chief of Ordnance, of the result of an investigation made with the object of determining whether other types of military rifles than that manufactured by the United States could be used to fire the ammunition made for the United States magazine rifle, caliber .30, model of 1903, known as the "Springfield." Should the committee desire further expert evidence on this subject, General Crozier and his assistants in the Bureau of Ordnance are at the disposition of the committee.

Very sincerely, yours,

WM. H. TAFT.

HON. FRANCIS E. WARREN,
Chairman Committee on Military Affairs, United States Senate.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ORDNANCE,
Washington, March 16, 1907.

THE SECRETARY OF WAR.

SIR: 1. In accordance with your verbal instructions I have the honor to report that an investigation has been made with the object of determining whether other types of military rifles than that manufactured by the United States could be used to fire the ammunition made for the United States magazine rifle, caliber .30, model of 1903.

2. Inclosed herewith is a table compiled from the best and latest data available in reference to the arms and cartridges used by other countries. It will be noted that either the caliber or the fact that the ammunition uses a flanged case excludes all the arms listed except the Mauser and Schmidt. Argentina, Peru, Belgium, and Turkey use Mauser rifles, caliber .301, which is near enough the caliber of the model of 1903 to enable them to be used, so far as caliber alone is concerned. The ammunition manufactured for this caliber of Mauser rifle has a grooved cartridge case which is slightly less in maximum diameter than the model of 1903 ammunition and is about 0.2 shorter from the base of the shell to the shoulder. The result of this difference is that the 1903 cartridge could not be inserted in a rifle chambered for the Mauser cartridge. On the other hand, the Mauser ammunition could not be fired from a model of 1903 rifle, as the cartridge would enter the chamber so far before coming to rest against the shoulder of the case that the striker point would be unable to reach the primer.

3. This information in reference to the cartridge case was obtained from samples of the ammunition on hand at the Springfield Armory and samples furnished by the M. Hartley Company, as well as from statements of the president of that company and of Mr. Charles M. Dally, both of whom are thoroughly familiar with the Mauser arm and ammunition. A further report is expected from Mr. Dally, and a report is also expected from the Springfield Armory. If further information is obtained from these reports, you will be informed.

4. The Schmidt rifle has but three lands, and a bullet fired from it would consequently be differently marked than would one fired from the United States magazine rifle, model of 1903, which has four lands.

Very respectfully,

WILLIAM CROZIER,
Brigadier-General, Chief of Ordnance.

Country.	System.	Model.	Caliber.		Number of grooves.	Width of -		Cartridge case.	
			Mm.	Inches.		Groove.	Land.	Kind.	Length.
Canada.....	Ross.....	Mark 11.	7.65	0.301	4	.....	.....	Flanged.....	.....
United States.	Lee-Enfield.....	.....	7.7	.303	5	.....	.....	.....do.....	2.3115
	Krag-Jørgensen, modified.....	1908	7.62	.30	4	0.166	0.0589	.....do.....	2.08
	Springfield magazine rifle.....	1903	7.62	.30	4	0.1707	0.069	Grooved.....	2.069
	Mausser.....	1905	7.0	.276	4	.....	.....	.....do.....	2.584
	.....do.....	1901	7.63	.301	4	.....	.....	.....do.....	2.564
	Orange River.....	1904	7.6	.276	4	0.169	0.059	.....do.....	2.3245
	.....do.....	1903	7.0	.276	4	.....	.....	.....do.....	2.1
	Chile.....	1905	7.0	.276	4	.....	.....	.....do.....	2.2245
	.....do.....	1903	7.0	.276	4	.....	.....	Grooved.....	2.2245
	Colombia.....	1903	7.0	.276	4	.....	.....	.....do.....	.....
Peru.....	.....do.....	1901	7.65	.301	.....	.....	.....	.....do.....	.....
Uruguay.....	.....do.....	1903	7.0	.276	.....	.....	.....	.....do.....	.....
Austria-Hungary.....	Mannlicher.....	1908	8.0	.315	4	.....	.....	Flanged.....	1.976
Bolivia.....	Mausser.....	1903	7.0	.276	4	.....	.....	Grooved.....	2.125
Belgium.....	.....do.....	1909	7.65	.301	4	0.175	0.06	.....do.....	.....
Transvaal.....	.....do.....	1903	7.0	.276	.....	.....	.....	.....do.....	.....
Denmark.....	Krag-Jørgensen.....	1903	6.5	.256	6	0.1097	.....	Flanged.....	.....
Great Britain.	Lee-Metford.....	1903	7.7	.303	7	.113	.....	.....do.....	2.3115
	Lee-Enfield.....	1903	7.7	.303	.....	.....	.....	.....do.....	.....
France.....	Lebel.....	1905	7.7	.303	4	.....	.....	.....do.....	.....
Germany.....	Mausser.....	1903	8.0	.315	4	0.165	.....	Flanged.....	2.02
Greece.....	Gras.....	1906	7.9	.311	4	.....	.....	Grooved.....	2.25
Netherlands.....	Mannlicher.....	1874	11.0	.433	4	0.177	.....	Flanged.....	.....
Italy.	Beaumont-Vital.....	1905	6.5	.256	4	0.098	.....	.....do.....	2.187
	Mannlicher-Carcano.....	1908	11.0	.433	4	0.17	.....	.....do.....	2.007
Japan.....	30 Meiji Murata.....	1901	6.5	.256	.....	.....	.....	.....do.....	.....
Norway.....	Krag-Jørgensen.....	1894	6.5	.256	.....	.....	.....	.....do.....	.....
Portugal.....	Kropatschek.....	1896	8.0	.315	4	.....	.....	.....do.....	.....
Bulgaria.....	Mannlicher.....	1905	8.0	.315	.....	.....	.....	.....do.....	.....
Romania.....	.....do.....	1903	6.5	.256	4	0.104	.....	Flanged.....	2.06
Serbia.....	Mausser.....	1899	7.0	.276	.....	.....	.....	.....do.....	.....
Russia.....	Mouzin.....	1901	7.62	.30	4	0.15	.....	Flanged.....	2.086
China.....	Mausser.....	1903	7.0	.276	4	.....	.....	Grooved.....	2.2245
Spain.....	.....do.....	1906	6.5	.256	.....	.....	.....	.....do.....	.....
Switzerland.....	Schmidt.....	1906	7.5	.306	3	0.196	.....	Grooved.....	2.11
Turkey.....	Mausser.....	1900	7.65	.301	4	.....	.....	.....do.....	2.10
Venezuela.....	.....do.....	.....	.....	.....	.....	.....	.....	.....do.....	.....

^a Chord.^b Arc.^c Approximate.

The above was checked on March 14, 1907, with latest information at hand in M. I. D. of General Staff.

The CHAIRMAN. The following letter has just been received:

WAR DEPARTMENT,
Washington, March 22, 1907.

MY DEAR SENATOR: I write to suggest to the committee that the three bullets which were picked out of the Brownsville houses and presented with the Purdy testimony be turned over to General Crozier, of the Ordnance Department, or to Lieutenant Hawkins, for the purpose of completing the measurements of all of the bullets in evidence. As I said in my last letter, Lieutenant Hawkins has made measurements of the other bullets, which I submitted to you with affidavits from citizens of Brownsville. As you advised me that the committee would be likely to adjourn to-morrow for a week or ten days, the interval would furnish ample time to make such examination as may be of assistance to the committee.

Sincerely, yours,

WM. H. TAFT.

HON. FRANCIS E. WARREN,

Chairman Committee on Military Affairs, United States Senate.

The CHAIRMAN. Agreeably to the request in that letter, the three bullets referred to will be turned over to General Crozier.

TESTIMONY OF LIEUT. WILFORD J. HAWKINS, U. S. ARMY.

Lieut. WILFORD J. HAWKINS, U. S. Army, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please give us your name in full.—A. Wilford J. Hawkins.

Q. You are in the United States Army?—A. Yes, sir.

Q. To what service are you assigned at this time?—A. I am serving, by detail, in the Ordnance Department, sir.

Q. What is your rank?—A. First lieutenant, Ordnance Department, sir.

Q. You do not belong to any organization—that is, to any infantry regiment or cavalry regiment or artillery regiment?—A. No, sir.

Q. With what regiment were you serving when you were detailed?—A. I was not serving with any regiment, sir. I was serving with the Fifty-third Company, Coast Artillery.

Q. Have you ever served in the infantry at all?—A. No, sir.

Q. Have you ever served in the cavalry?—A. No, sir.

Q. Have you ever served, prior to this detail, except with Coast Artillery?—A. No, sir.

Q. Where were you stationed with the Coast Artillery?—A. At Fort Wadsworth.

Q. How long were you stationed there?—A. I was stationed there for about one year, sir.

Q. Are you a graduate of West Point?—A. Yes, sir.

Q. In what class?—A. The class of 1903, sir.

Q. What was your first service after you joined the Army?—A. My first service was that of second lieutenant, with the Fifty-third Company, Coast Artillery.

Q. At Fort Wadsworth?—A. Yes, sir.

Q. And you were there for about one year?—A. Yes, sir.

Q. And then in 1904 you were placed on this detail with the Ordnance Department?—A. Yes, sir.

Q. Can you give us the exact date of that detail in 1904?—A. I think it was the 1st of July, 1904, sir.

Q. Had you, prior to the 1st of July, 1904, had anything to do with the service—I mean outside of your experience as a cadet;

had you had anything at all to do with small arms or small-arms ammunition?—A. No, sir.

Q. Where were you assigned to duty when you were detailed to the Ordnance Department?—A. Sandy Hook proving grounds, sir.

Q. What were your duties there?—A. I was assistant proof officer and also quartermaster.

Q. Assistant proof officer?—A. Yes, sir.

Q. What do you mean by assistant proof officer?—A. That is the definition which is used at Sandy Hook for officers who are assigned to the assistance of the commanding officer in proving ordnance material.

Q. What kind of work did you have there that you were proving?—A. Mostly proof of cannon and the experimental firings with cannon and mortars, and experimental proof firings with projectiles of various calibers.

Q. You had no small arms there at all, had you, that you experimented with in any way?—A. No, sir.

Q. How long did you remain at Sandy Hook on that proving station?—A. Until September, 1905.

Q. Then where were you assigned to duty?—A. I was then sent to the Springfield Armory, sir.

Q. Have you been there ever since?—A. Yes, sir.

Q. What has been your special duty at the Springfield Armory?—A. I was assigned at first as an assistant to the commanding officer, and also as an assistant to the officer in charge of the hill shops, and as an assistant to the officer in charge of the experimental firing, and recorder of a board of officers at the Springfield Armory whose duty it is to make tests of various kinds of inventions and small arms.

Q. Were you assigned to all these duties at the same time—assistant to the commanding officer and assistant to the commander of the hilltop station, did you say?—A. The hill shops.

Q. And then what was the other position?—A. Recorder of a board of officers there.

Q. Were you assigned to all these duties at the same time?—A. I think it was all in the same order; yes, sir.

Q. Now, what was involved in your duty as assistant to the commander at the arsenal—who was he, by the way, at that time?—A. Col. Frank H. Phipps.

Q. Is he still on duty there?—A. Yes, sir.

Q. And has been all the while; are you still his assistant?—A. Yes, sir.

Q. What did your duty as his assistant involve? What did it cover?—A. It covers anything in connection with the work at the armory to which he may assign me.

Q. You were subject to his orders?—A. Yes, sir.

Q. You would have been subject to his orders anyhow, would you not, if you were simply assigned to duty at the arsenal?—A. Yes, sir.

Q. He is the commander in chief there, and all who are on duty there with him of inferior rank would be subject to his orders. Now, what did he require of you under the orders that he gave you?—A. During the first few months I was required to spend about a half of each day in the hill shops.

Q. What did they do in the hill shops?—A. The hill shop is a part of the armory where certain components of the United States

magazine rifle, model 1903, are constructed, and where the rifle is finally assembled and packed for storage.

Q. What parts are constructed in the mill shops?—A. The receiver of the rifle is constructed there, and the bolt—

Q. Is the receiver what we call the chamber?—A. No; the chamber is in the barrel, sir.

Q. Is the receiver where you put in the cartridge?—A. The receiver is the piece of metal which receives the barrel and receives the bolt.

Q. There is a rifle right behind you, which, as we understand, is a Springfield. I wish you would just unlock that gun rack and take out the rifle and explain it to us.—A. (Illustrating with the rifle.) This portion of the rifle that extends from here down to here is called the receiver.

Senator OVERMAN. You had better get a more definite description than that. "From here to here" does not explain anything.

By Senator FORAKER:

Q. The part you refer to is the part in which you deposit the cartridges, is it not, when you want to prepare to fire?—A. No, sir; the cartridges are dropped into the magazine.

Q. Where is the magazine?—A. The magazine is below the receiver; down in here, sir.

Q. What particular part is the receiver?—A. That is the part of the metal which is screwed fast to the tenon on the end of the barrel. That is called the receiver.

Q. I do not quite understand it.

The CHAIRMAN. Please make your description as plain as you can, with reference to its intelligibility when it appears in the printed report.

By Senator FORAKER:

Q. Did you use the word "tenon"?—A. Yes, sir.

Q. Just indicate that so that we can describe it in the record.—A. The tenon is a projecting portion of the barrel, at the rear end of the barrel, which projects into the receiver. This tenon carries threads which mesh with threads in the forward end of the receiver.

The CHAIRMAN. That is at the rear of the gun barrel?—A. Yes, sir.

By Senator FORAKER:

Q. Is the receiver a part of the bore?—A. No, sir.

Q. The bore is immediately in front of that. Does not the bore connect with the receiver?—A. No, sir.

Q. Well, then, I do not know where the receiver is. Can you explain it so we will understand it?—A. If I had a screw-driver I could take it apart and show it to you, sir.

Q. How do you load that gun?—A. Single shot or magazine loading?

Q. Either way. How do you load it if you want to put five cartridges in it? It will receive that many, will it not?—A. Yes, sir.

Q. Where do you put them in and how?—A. If you have five cartridges in a clip and desire to load the rifle with those cartridges, the clip is taken and the end of the clip is placed in these two clip recesses, here and here, and then, holding your finger down here, a quick, sudden pressure with the thumb forces all those cartridges

down, stripping them from the clip, and forces them into the magazine, where they remain.

Q. You call that the magazine. I want to get the relation of the receiver to the magazine and a description of the receiver, so we can differentiate it from the magazine.

By Senator FRAZIER:

Q. What becomes of the clip when you press those cartridges down?—A. The clip stands in these clip recesses until the bolt is shoved forward.

Q. That throws the clip out?—A. The clip then jumps out and away from the gun.

By Senator FORAKER:

Q. You can jump it out or take it out with your hand, can you not?—A. Yes, sir.

Q. Now, give us a description that will distinguish the receiver from the magazine.—A. The receiver is a piece of steel which receives the tenon of the butt of the barrel, receives the bolt and the cut-off, and the connecting screws from the magazine guard.

Q. From the magazine guard, did you say?—A. Yes, sir.

Q. What is the guard of the magazine?—A. The magazine guard is this piece of metal which extends from this forward tang back to the rear tang, including the trigger guard and also including the magazine.

Q. That is underneath the rifle, and has been spoken of in the testimony as the floor of the chamber of the rifle—is it sometimes called that, the piece that you first pointed out immediately in front of the guard?—A. No, sir.

Q. You never heard it called the floor of the chamber?—A. No, sir. This plate that fits into the bottom of the magazine guard is called the floor plate.

Q. That may be what it is termed—the floor plate. That is the kind of work that is constructed, as I understand you, in the hill shops?—A. Yes, sir.

Q. Where is the barrel of the rifle made?—A. That is made at the water shops of the Springfield Armory.

Q. Located also at Springfield, Mass.?—A. Yes, sir.

Q. Were you connected with that in the discharge of your duties?—A. Yes, sir; I am serving there now.

Q. Are you also serving now in the hill shops?—A. No, sir.

Q. How long did you serve in the hill shops?—A. I served there from September, 1905, until this last November.

Q. Last November you went into the water shops?—A. Yes, sir.

By Senator OVERMAN:

Q. Where is the bolt made?—A. The bolt is made at the hill shops, sir; that is, the bolt is finished at the hill shops. We make the drop forgings for all of the parts of the rifle at the water shops. Then some of the parts of the rifle are sent to the hill shops and machine-finished there. Other parts of the rifle, after being forged at the water shops, are finished at the water shops.

By Senator FORAKER:

Q. And you have been serving at the water shops ever since, have you, until now?—A. Yes, sir.

Q. Now, you told us that all the different parts of the gun are assembled in the hill shops, and the gun is there put together, and from there it is shipped out to the arsenal?—A. From the hill shops we simply send the guns to storage at the Springfield Armory.

Q. And then when are they shipped away from there to the different departments?—A. When requests are made for them, sir.

Q. Whenever there are requisitions? I notice that the numbers of the guns that were issued to these Companies B, C, and D of the Twenty-fifth Infantry run very irregularly. Is that usual?

The CHAIRMAN. You mean they do not run consecutively?

By Senator FORAKER:

Q. They are not consecutive numbers.—A. The arms chests are packed more or less at random in the storehouse.

Q. How does that come about? When you finish a gun you put a number on it, don't you?—A. Yes, sir.

Q. Where is that number put on?—A. Right on the receiver, sir.

Q. In what shop is that put on?—A. That is put on at the hill shops, sir.

Q. Then when the different parts are assembled and the rifles are pronounced finished, are they put together for shipment in a haphazard way, or are they stacked up according to their numbers with some regularity or some method?—A. The number is not placed on the receiver after the receiver is assembled to the barrel, but is placed upon the receiver when the receiver is soft. The receiver has to be casehardened, and of course after it is casehardened it can not be stamped. The receivers are stamped every day, carrying on the serial numbers from where they were the previous day.

Q. I notice that the numbers for one company run as follows: 46544, 45186, 48790, 54517. That seems to be very irregular, as I remarked awhile ago, and comes about from the fact that the numbers are put on in the way you have indicated, and the rifles do not come out in a finished state according to those numbers consecutively?—A. No, sir. That would entail a great deal of extra work.

Q. Then in shipping to the arsenal you pay no attention to the numbers at all.—A. I do not quite understand that statement.

Q. I say, if a requisition is made upon the Springfield Arsenal for a thousand rifles, you do not seek to send a thousand that are consecutively numbered; you just take a thousand rifles?—A. Yes, sir; that is true.

Q. The first ones you get hold of?—A. Yes, sir.

Q. The numbers may run consecutively or they may be irregular, as I have indicated in reading the numbers to which I have called your attention? That is as I understand it.—A. Yes, sir.

Q. Now, when these rifles of B, C, and D Companies were sent back to you, who received them?—A. They were received by the ordnance storekeeper.

Q. Perhaps I should have asked you some preliminary questions. You, in connection with Mr. Spooner, the inspector, made an examination of these rifles, as I understand it, and made a report as to the results of your investigations of the rifles that were supposed to be in the hands of the men of B, C, and D Companies at Brownsville, Tex., on the night of August 18, 1906?—A. We made an examination more particularly of the cartridge cases.

Q. Of the cartridge shells?—A. We call them cartridge cases. "Cartridge case" is the proper name.

Q. You do not call them shells. We have been calling them cartridges and cartridge shells. By cartridge shells we mean what is left after the cartridge has been exploded?—A. Yes, sir.

Q. And you call that a cartridge case?—A. Yes, sir.

Q. Your examination had particular reference to those cases, then, as you call them?—A. Yes, sir.

Q. How many were there of them?—A. Of the cases, sir?

Q. Yes.—A. I fired two rounds from each rifle—

Q. No; how many cases were sent to you for inspection? If they are present I should like to have the clerk hand them to us.—A. There were 39 cartridge cases and cartridges.

Q. That is 39, including cartridges that had not been fired?—A. Yes, sir.

Q. How many cartridges were there that had not been fired among those 39?—A. There were 33 that had been fired.

By Senator FOSTER:

Q. That had not been fired?—A. There were 33 that had been fired.

By Senator FORAKER:

Q. Have you a record showing when you received these cases and cartridges?—A. I think the date of the receipts of those cartridges is mentioned in my report, sir.

Senator FORAKER. Senator Warner has made a suggestion to me, on account of which I think I had better postpone any further examination of this witness until the next sitting of the committee.

Senator WARNER. I think we agree on that.

The CHAIRMAN. Very well. Mr. Hawkins, it is thought best, in order to obtain some information which is essential, to postpone your further examination until the next session of the committee.

Senator FORAKER. I move that we adjourn until Monday morning at 11 o'clock.

The motion was agreed to.

Accordingly (at 12 o'clock and 35 minutes p. m.) the committee adjourned until Monday, March 25, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Monday, March 25, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF ALGERNON JEBB.

ALGERNON JEBB, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Give us your name in full.—A. Private Algernon Jebb.

Q. Are you in the Army?—A. Yes, sir; Company K, Twenty-sixth Infantry.

Q. How long have you been in the service?—A. I have been now very near twenty-two years, sir.

Q. Where all have you served?—A. My first service was in the Third Cavalry. I went to Jefferson Barracks in 1886. From there I was assigned to my troop at Fort Sill, Ind. T. From Fort Sill we were sent to Texas. We were stationed down on the lower Rio Grande, at Fort Ringgold, Tex. We came back from Fort Ringgold and were stationed at Fort Sam Houston, San Antonio. I was discharged from there. I reenlisted again in Detroit, Mich., and was sent from there to Jefferson Barracks. I reenlisted in the Sixth Cavalry, in K Troop, and was sent from there to Fort Niobrara. From Fort Niobrara I went as provost guard at Fort Leavenworth, Kans. I was discharged from there under General Order 40, three years and three months. I then rode with Colonel Cody in Ambrose Park, South Brooklyn. From there I reenlisted in Abington square, New York, and from there I went to Jefferson Barracks, at the time the recruiting depot was about to be broken up. My troop was sent there, where I was assigned to D Troop, Third Cavalry, stationed there. We stayed there then until the outbreak of the Spanish-American war.

In the Spanish-American war I went to Chickamauga. From Chickamauga we were ordered to Tampa, Fla. I was transferred from D Troop, Third Cavalry, to L Troop, then a skeleton troop, as a drill instructor. From there we went to Montauk Point. From there we went to Fort Ethan Allen. From Fort Ethan Allen we went to the peace jubilee at Philadelphia, and from there we went to Augusta, Ga., and wintered. There was an order then came for two troops to leave Georgia and proceed to Fort Sheridan, Ill. In Fort Sheridan I transferred to I Company, Nineteenth Infantry, in 1899, and went over to the Philippine Islands. I was discharged at a place called Cebu. I returned to Manila and then met my former lieutenant, Lieutenant Hight, and he asked me to join his troop and go with him to the northern end of Luzon. I said, "Yes; I will go with you." He then took me to Vigan, and from there to Lebac. Then, after the squadron was reorganized in Lebac, we returned there, and from there I was ordered home to the United States. We turned our horses over to the Eleventh Cavalry, that was stationed there, and came back to the United States on the *Lawton*. When we got back to San Francisco we remained there seven days, and then we were sent to Fort Assinniboine. While we were stationed at Fort Assinniboine, L Troop was stationed there—

Q. Let me abbreviate that a little, for we are somewhat pressed for time. You continued in the service until you enlisted in the Twenty-sixth?—A. Yes, sir.

Q. And how long have you been in the Twenty-sixth?—A. I joined the Twenty-sixth in 1903.

Q. And have been serving with them ever since?—A. Yes, sir.

Q. Were you with the Twenty-sixth and with Company K while it was at Fort Brown, at Brownsville, Tex.?—A. Yes, sir; that is where I joined the company.

Q. You joined it there?—A. Yes, sir; some time in October, 1903; I don't remember the date exactly; after I returned from the islands.

Q. Did you leave there with the battalion when it went to Fort Sam Houston?—A. Yes, sir.

Q. Do you remember the date when it left?—A. It left there the 5th of July.

Q. Can you tell whether or not before you left any additional ammunition was issued to the men of your company; and if so, how much and what kind?—A. Yes, sir; there was 10 rounds of ammunition of the new Springfield guns issued to us. We already had 10, and there was 10 additional rounds issued to us before we went on the train.

Q. Do you know of your own knowledge anything about what was done with the bandoliers out of which that ammunition was taken?—A. Well, some of the bandoliers may have been packed up, but I seen bandoliers lying around the quarters the morning that we marched away from there.

Q. You did see some lying around on the morning that you marched away?—A. Yes, sir.

Q. Tell us whether or not, while you were in Fort Brown with your company, you heard any inquiries; whether any were made of you by citizens or others of Brownsville or that vicinity about ammunition.—A. Well, yes, sir; I have heard a number of people say that they would like to get ammunition.

Q. When did you hear remarks of that kind made, and by whom, if you can tell?—A. Well, when my company was ordered to the target range, just about a month before we left—or preceding that—I was detailed by the commanding officer on special duty, to see that rations—that is, provisions—were issued to Point Ysobel; that was about 20 or 22 miles below the fort, and all I had to do at that time was to see that those provisions were shipped to the troops that we had there; provisions such as bread and meat and so forth.

Q. Did you hold any official position?—A. Yes, sir; I was detailed on special duty.

Q. What was that special duty?—A. Just detailed to the commanding officer to carry out his instructions. You are not under the orders of the quartermaster or anybody else, but you just take orders from the commanding officer in regard to what you do, and to see that the thing that is to be shipped is put on the train and shipped to that point, and of course on the other end, if the things are there, to take them away.

Q. What did that have to do with the ammunition, or with citizens wanting it?—A. In the meantime, while I was shipping that stuff, I used to ship the ammunition of this new model gun down to—

Q. The Springfield ammunition?—A. The Springfield ammunition; and I met Mr. Fred Starck—

Q. He was the customs officer there?—A. Yes, sir; the customs officer there, and I said, "We have a lot of surplus ammunition," what we called the Krag ammunition, "would you like to buy it?" "Well," he said, "what do you want for it?" I said: "It is surplus ammunition. We ain't got no use for it." He did not make any offer, but he said: "I should like to get it." "Well," I said, "I will see what they are going to do about it when I get back to the company." That is as far as I know of. Another thing, as I say, when we were down there at the point shooting, when I was on special duty—I did not leave the company until fifteen days before the company returned to the post; had my shooting there; I was relieved from special duty—ammunition was plentiful.

Q. Ammunition was plentiful?—A. Very plentiful.

Q. Where?—A. Right at Point Ysobel.

Q. That is, you mean surplus Springfield ammunition?—A. Certainly, both kinds of ammunition; Krag, too, sir.

Q. Krag also?—A. Yes, sir.

Q. Do you know what became of it? Have you any knowledge of who got the benefit of it?—A. I don't know, I never seen any sold.

Q. Did you sell any yourself?—A. No, sir; I have given ammunition away.

Q. To whom did you give ammunition?—A. I have given ammunition to the rangers, sir.

Q. To the rangers?—A. Yes, sir.

Q. You mean to members of the Texas Rangers?—A. Yes, sir.

Q. On what occasions and where and how did you give to them, and to how many of them, if you can tell us?—A. The year before that I was employed in the quartermaster's department as teamster, and while being a teamster there a year before this what I am talking about—

Q. 1905, you mean?—A. 1905; yes, sir; we were sent to Fort Ringgold for target practice.

Q. That was when you had the Krag?—A. When we had the Krag rifle; yes, sir; and I was sent there. I did not drive a team up over the road, but just then I went out of the quartermaster's department, and after being thirty days on the target range I returned to the post. Just after coming back I was detailed on special duty again with Lieutenant Harris, of the Thirtieth Infantry, on a survey, and I drove team for ninety days, and of course in leaving the post—

Q. Tell us about when it was you drove for a period of ninety days on a surveying trip for Lieutenant Harris.—A. I started there about the 2d of July.

Q. 1905?—A. 1905; yes, sir.

Q. Tell us what you did with the rangers, as to the ammunition, as quickly as you can.—A. I drove for this surveying party, and we proceeding to Hollinger.

Q. That is the name of a town?—A. Yes, sir.

Q. Where is that located?—A. That is located just about 22 miles from Fort Brown, on the St. Louis and Brownsville Railroad. It is a junction.

Q. About Brownsville?—A. Yes, sir.

Q. You mean up the river?—A. Yes, sir.

Q. That is enough about that. Now, what happened when you got there?—A. While we were out there the rangers came up there, and they would say: "Jebb, have you got any ammunition?" I said: "Yes; we have plenty."

Q. Did they get ammunition from you, or not?—A. Yes, sir; they got ammunition from me.

Q. What kind of ammunition was that?—A. It was Krag ammunition.

Q. What kind of guns did they have?—A. Well, I don't know; I could not say, but I understood them to say that they had the .30-30—what they call ".30-30."

Q. What is the .30-30?—A. The .30-30 is something like a Winchester, but I don't exactly know what kind it is; but it is a Winchester that used that ammunition.

By Senator FRAZIER:

Q. Was that in 1905, do I understand?—A. Yes, sir; 1905.

By Senator FORAKER:

Q. I will ask you whether or not you saw any of them armed with what is called the Krag carbine?—A. I don't know, sir. I never heard them say it was the Krag carbine. They just said it was the .30-30.

Q. I only want to know what you know about it. Whatever the gun was, you understood it would shoot your ammunition?—A. It would shoot our ammunition.

Q. And they got it from you because of that fact?—A. Yes, sir.

Q. Have you any other knowledge about the disposition of ammunition to anybody? How much ammunition did you give to these people?—A. Well, the ammunition used to come in square cardboard boxes, 20 in a box, and at that time I used to carry in front of the wagon what they called a jockey box, used to carry all the way from a hundred rounds—say, perhaps, 120 or something. I never counted it. I would give them a whole box—say, 20 rounds.

Q. Had you a right to give the ammunition away in that manner?—A. Had no right, but it was surplus ammunition.

Q. Where did this surplus ammunition come from?—A. It came from K Company's storeroom, sir.

Q. Where did they get so much surplus ammunition?—A. I understand they brought it back from the islands.

Q. From the Philippine Islands?—A. Yes, sir.

Q. Do you know anything about how that accumulated? You were not with the company, you say?—A. No; I was not.

Q. You know they had a large amount of surplus ammunition on hand?—A. They did, sir.

Q. When you were with them?—A. Yes, sir.

Q. Do you know what became of that surplus ammunition when the company left Fort Brown?—A. There was some ammunition—I have no doubt it was left there.

Q. I only want what you know. Do you know whether any was left there or not?—A. I have no doubt there was some left, sir; but of course I could not swear to it. I never seen it left.

Senator FORAKER. That is all.

By Senator WARNER:

Q. I understand when the rangers asked you if you had surplus ammunition they addressed you as "Jebb?" "Jebb, have you any surplus ammunition?"—A. Yes, sir.

Q. You knew the rangers?—A. I knew them, sir.

Q. Which one of them was it came up and called you Jebb?—A. Sergeant McAuley.

Q. How do you spell his name?—A. His name is McAuley. I don't know how he spelled his name.

By Senator FORAKER:

Q. Sergeant McAuley?—A. Yes, sir; he was stationed there at the time; but the other man's name, I would not know his last name.

By Senator WARNER:

Q. Was Sergeant McAuley one of the rangers?—A. Sergeant McAuley, he was in charge of the rangers.

Q. And they asked you, "Jebb, have you got any surplus ammunition," and you told them "yes?"—A. Plenty; yes sir.

Q. Where were you then; out on the range?—A. No, sir; about 22 miles from Fort Brown, at Hollinger.

Q. What were you doing then?—A. I was out with Lieutenant Harris on a surveying trip. He was surveying the country then.

Q. Who else were along with you on that surveying trip?—A. There was Sergeant Schupolski, of M Company, Twenty-sixth Infantry. He is now discharged. There was Private Madison, of K Company, Twenty-sixth Infantry, who is now discharged, and there was Private Wolf, of L Company, Twenty-sixth Infantry. He was carried on as cook.

Q. He was the cook?—A. Yes, sir. He is now discharged and living around the post at Fort Sam Houston.

Q. They composed the party—all of it?—A. Yes, sir; with Lieutenant Harris.

Q. So, if I have it correctly, there were three and the cook?—A. One sergeant and three privates, counting the teamster.

Q. The cook was one of the privates?—A. Yes, sir.

Q. You were out on a surveying party?—A. Yes, sir.

Q. What was the purpose of that party?—A. They were making a survey of the country—mapping.

Q. Did you take along your guns?—A. No; we had only one gun with us.

Q. Only had one gun?—A. Yes, sir.

Q. About how much ammunition did you have?—A. We carried all the way from 150 to 200 rounds of ammunition, sometimes more.

Q. Well, I know, but as I do not understand I will try to find out. On this trip you had several boxes of ammunition?—A. Yes, sir; we had—that is, these cardboard boxes.

Q. I understand.—A. Twenty rounds in a box, and we had all the way from 14 to 15 boxes—that is, all the time we could get all the ammunition we wanted by sending in for it.

Q. That was a pretty good supply for one gun, was it not?—A. Well, not altogether; not with what shooting we done. It was not a very good supply.

Q. But yet you told him you had plenty to give away?—A. Well, yes, plenty—that is, say, 10 or 20 rounds.

Q. Well, but you just handed him out a box, 20 rounds, you say?—A. Yes, sir.

Q. How many boxes did you hand him?—A. Just one box, sir.

Q. Did you ever hand any out at any other time?—A. Yes, sir; handed one or two rounds to certain men that came along.

Q. One or two boxes?—A. No; one or two rounds or four or five rounds.

Q. Four or five rounds to one or two other men. Did you hand any to others?—A. Well, I could not exactly say to anybody else.

Q. That was before you got the Springfield rifle?—A. That was before we got the Springfield rifle.

Q. So that there was no question about having extra ammunition?—A. No, sir; there was nothing of the kind.

Q. You took the same care of that ammunition that you did of the Springfield ammunition, didn't you?—A. No; we did not.

Q. If you had been out there when you had the Springfield guns, and had had only one gun, and had this ammunition, you would

have issued it just the same, wouldn't you?—A. Well, it is this way, sir: We never used the gun very much, and some days we would use the gun more than other times, and of course the ammunition was very inconvenient to carry along, and if we were going back to the post—we went backwards and forwards at very short periods, from ten to fifteen days, and when we got back to the post we could get more ammunition.

Q. And it was an inconvenience, carrying that ammunition, you say, and when you got back to the post you would get more?—A. Yes, sir. It would be rolling around in the wagon.

Q. You had a wagon along?—A. A wagon and four mules.

Q. The ammunition was carried in the wagon?—A. Carried in the wagon, with some in the jockey box.

Q. And these 15 or 20 pasteboard boxes having 20 rounds in each box got kind of burdensome?—A. Yes, sir; inconvenient rolling around.

Q. So that you just gave them away?—A. Sure, sir; to get rid of them.

Q. To get rid of them, because you knew when you got back you could get as many as you wanted, and you were going in every ten or fifteen days?—A. Yes, sir.

Q. And then get three or four hundred rounds more and keep it with the party, and having only one gun, then if you meet a man you would just give that away?—A. Well, of course I would not give them to every man that came along, such as Mexicans.

Q. Oh, no.—A. Or anybody that we did not know.

Q. But to friends you would give them?—A. Yes, sir.

Q. This was in 1905, I understand?—A. Yes, sir.

Q. So you had been a soldier at that time for twenty years?—A. Twenty years; yes, sir.

Q. Private all the time?—A. No, sir; I had been a sergeant for several years—well, corporal to sergeant several years—and I left the Third Cavalry in the Yellowstone Park in 1903 and went into the infantry, so as not to become burdened by being a noncommissioned officer. I have had an offer as a noncommissioned officer, but there was more money in it to me to work for the quartermaster than to be a noncommissioned officer.

Q. You did not want to be burdened with it?—A. I did not want to be burdened with being a noncommissioned officer; no, sir.

Q. When did you get the Springfield rifles there in Brownsville?—A. We got the Springfield rifle in 1905. I don't recollect the date, but it was before the company had started for the range. I think the first company went out—I think Company L, Twenty-sixth Infantry, started in May, somewhere between the 1st and 10th. That was Captain Baldwin's Company. They were relieved then by the M Company, Twenty-sixth, and M Company was relieved by K Company, Twenty-Sixth, my own company. I just want to state it so as not to get things mixed.

Q. Certainly, Mr. Jebb, state it fully.—A. I want to state that in the first starting off of the companies, going down to the range I was not detailed—you see, the new model Springfield carbine was late coming, and Company M, Twenty-sixth Infantry, marched down without any rifles. Their rifles were shipped after them from Fort Brown to Point Ysobel and issued out there, so it must have been some time when M Company was down at the range that they got their

rifles. I don't exactly recollect the dates, but I know we went down there and we had a very short time to finish our target practice. We hurried through to get home and pack up.

Q. Just answer as fully as you please, but still as concisely as may be convenient. At Point Ysobel you got the new Springfield rifles, you had them there?—A. M Company did; not my company. My company was issued the rifles just before starting down there.

Q. What companies were at Point Ysobel?—A. M Company—there was three companies, L, M, and K Companies.

Q. Your company had the Springfield rifles issued before they went down there?—A. Yes, sir.

Q. That was K Company?—A. Yes, sir.

Q. And M Company got its rifles after it was there?—A. Yes, sir.

Q. What was the other company?—A. L Company.

Q. And they had their rifles?—A. Yes, sir; they had their rifles.

Q. Before they went to Point Ysobel?—A. Before they went to Point Ysobel.

Q. Going to Point Ysobel was for target practice, was it not?—A. Yes, sir.

Q. What you call range practice?—A. Yes, sir; range practice.

Q. When was that?—A. That was in 1905. I think it was in May. We generally have a month apiece. We are supposed to have a month apiece, but our company was hustled through. I think Captain Baldwin's company about the 10th of the month—somewhere about the 10th of the month.

Q. About the 10th of May?—A. Somewhere about the 10th of May.

Q. So when you got down there I understand, as you have said, ammunition was plentiful?—A. Plentiful; yes, sir.

Q. At Point Ysobel?—A. Plentiful; yes, sir.

Q. So if anybody came up, and you wanted to give a few to a friend, you could give them a few rounds of ammunition?—A. Well, you might give them a clip.

Q. A clip, that would be five?—A. Five rounds of ammunition, a clip.

Q. But you said it was plentiful, Mr. Jebb?—A. Yes, sir; the Krag ammunition was plentiful.

Q. No; but at Point Ysobel?—A. Well, it was plentiful; yes, sir.

Q. For the Springfield rifle?—A. Plenty; yes, sir. That is, a man going out on the range, he could go and help himself. He could go down there and take 10 or 15 clips extra out on the range. Say I have got 500, or I have got 600. Now, I have got to shoot 10 rounds at each range. Well, I would not go and take just a round of ammunition if I wanted to shoot at each range, because there may be some flaw and then I would have to shoot over again, and I would take perhaps 20 or 30 extra rounds.

Q. So you would have that ammunition?—A. Yes, sir. That is the way the ammunition was plentiful; never issued out to you, you know. You would go and help yourself. You see it comes in a bandolier with 60 in it.

Q. Yes, I understand.—A. You might pick up a bandolier with 60 or 40 rounds in it, and you would take the whole bandolier.

Q. You would take the entire bandolier for convenience?—A. Yes, sir; that is the way it went with ammunition plentiful. If the ammunition was scarce, it would be issued out to us just so many rounds as we had to fire.

Q. You had been a soldier, then, twenty years in the Army?—A. Yes, sir.

Q. That was the customary way, was it not, as far as you know?—A. Yes, sir.

Q. No different in your regiment and other regiments?—A. Our regiment always had plenty of ammunition.

Q. How many rounds of ammunition do you suppose you gave away there—Springfield ammunition?—A. I never gave away a round of Springfield ammunition while I was at Point Ysobel. I was talking about giving the Krag ammunition away.

Q. Yes; I understand.—A. I never gave a round of the new ammunition away while we were at Point Ysobel.

Q. But when you were at Point Ysobel for this range-firing practice you had the Springfield rifles then?—A. Yes, sir.

Q. You did not have the Krag?—A. No, sir; we had the Springfield gun.

Q. You did not have the Krag then?—A. No, sir.

Q. Did not burden yourself with it then?—A. No, sir.

Q. So when you speak of ammunition being plentiful at Point Ysobel, you mean the Springfield ammunition?—A. Yes, sir.

Q. Of this new gun?—A. Yes, sir.

Q. That is what I thought. And it was that ammunition that you would give a man a few of, as you have said?—A. Well, you could give him a clip; yes, sir. You would not want to take and break open a clip.

By Senator SCOTT:

Q. Let me break in there just a minute. I want to ask a question. We have had it testified here that the ammunition issued to a man was charged to him. Was the ammunition that was issued to you and that you gave away so freely charged to you?—A. No, sir; the Krag ammunition never was charged to me.

Q. But the Springfield ammunition, is not that charged up to each man and each company?—A. No, sir; ammunition is not charged to you when you are out on the target range.

Q. I am speaking of in barracks.—A. Yes, sir; the 10 rounds.

By Senator WARNER:

Q. I was speaking of the target range.—A. On the target range.

Q. There the soldier goes and takes just what he wants?—A. Goes and takes just what he wants; yes, sir.

Q. The Krag ammunition was not in clips?—A. No, sir; it was just in boxes.

Q. Twenty rounds in a box?—A. Yes, sir.

Q. You know, do you not, Mr. Jebb, as an old soldier, that these bandoliers were supposed to be shipped back to the arsenal?—A. Well, no, sir; they are not supposed to be shipped back to the arsenal, but I will tell you where they go back to the arsenal. You see, for instance, take a company, and they save so many shells, so many clips, or they save so many bandoliers, and they get money for it or extra ammunition. You see they are not supposed to be returned, such a thing as a bandolier; if it is lost there is nobody held responsible for it.

Q. So you get so much money for it?—A. You get so much money for it; yes, sir.

Q. How much money for each bandolier?—A. I don't know exactly what the amount is for the bandoliers, but for the clip off the end of the cartridges I believe it is \$3.65 a thousand.

Q. But I was talking particularly about bandoliers.—A. About the bandoliers, I could not say anything about bandoliers. I know they get so much for them when they are returned.

Q. Now, citizens would come up to you and say, "We would like to get some ammunition;" and if you knew the citizen, of course you would give him some?—A. Well, it just depended on who he was.

Q. Well, I know, but if he was a man you trusted, you would give him some?—A. I might, if he was a friend of mine, might give him a clip of ammunition.

Q. And, as I say, they would come up to you—the circumstance you remember was about a month before you left there, when Fred Starck, the customs officer, came up to you and asked you.—A. He did not come up and ask me; I went up and asked him if he wanted to get any ammunition. That was old Krag ammunition. I was then on special duty. I was not at the Point then.

Q. I understand, you were down at Brownsville then?—A. Yes, sir; we were stationed at Brownsville.

Q. And you went and asked him?—A. I went and asked him if he wanted to buy any Krag ammunition.

Q. Did you have Krag ammunition for sale?—A. We did. We had plenty of it in the company.

Q. How much?—A. Several thousand rounds.

Q. And you were authorized to sell it?—A. I was not authorized to sell it. I was just acting for another party.

Q. What other party?—A. The quartermaster-sergeant.

Q. Who was the quartermaster-sergeant?—A. Sergeant Cheas-mann.

Q. If you sold this surplus ammunition, the boys got the advantage of that?—A. It went into the company funds; was supposed to, if he did not put it into his own pocket. It was supposed to go into the company funds.

By Senator FOSTER:

Q. If he did not put it in his own pocket it went into the company funds?—A. If he did not put it in his own pocket it went into the company funds.

Q. If it went into his own pocket, what became of it?—A. Well, I could not say, sir. It is pretty hard for a company to get along—pretty hard for the quartermaster-sergeant to get along with the rations—and he has got to make everything he can since this canteen has been abolished. It is pretty hard. They don't know exactly what it is—a company of 50 or 60 men living on the Government rations and no support coming in, only the money from the company treasury, or something like that. It is pretty hard to make both ends meet.

By Senator FORAKER:

Q. It is nothing unusual for a quartermaster-sergeant to sell surplus supplies, is it?—A. No, sir; it was nothing unusual.

Q. Anything that might be issued to the company, with the money he got for it he could buy something else that he thought would be

better for the company.—A. Yes, sir; such a thing as vegetables—cabbages and such things.

Q. Fruits?—A. Very little fruits.

Q. I am speaking of dried fruits?—A. Yes, sir.

By Senator WARNER:

Q. Right there, Mr. Jebb, you say it was nothing unusual for a company to sell its surplus supplies.—A. The surplus supplies. It is nothing unusual.

Q. For instance, if you were issued more dried fruit in the regular ration—that is issued in the regular ration, isn't it?—A. Yes, sir.

Q. So much to each company?—A. Yes, sir.

Q. So if you had more dried fruit than you wanted you would have a right to sell that and buy vegetables and such other things?—A. Yes, sir.

Q. If you had more sugar than you needed, you could sell that?—A. Yes, sir.

Q. Or coffee?—A. Yes, sir.

Q. So with anything?—A. Yes, sir.

Q. But if you had more ammunition than you wanted, you could hardly sell that, could you?—A. If you had a surplus which was not on the company records I suppose it could be sold.

Q. Now, Mr. Jebb, as you are an old soldier and we do not understand this, tell us how this surplus of ammunition would accumulate.—A. Now, for instance, coming back from the islands there is an awful lot of confusion you know in companies leaving the islands, that is in shipping their property, in not marking the boxes right and such things, and coming back, you know, and leaving stuff there and other companies would go there.

Q. And get the box?—A. Get the box and fetch it over to their own company.

Q. And forage it?—A. Well, it is not foraging it when they leave it there. Every soldier is looking out for his own company and only looking out for his own company's interests.

Q. I do not want to cut you off, not in the least, but I want to find out when you were on post duty, say at Brownsville, how this surplus ammunition would accumulate?—A. It came back from the islands, that is, I suppose it came back from the islands. It was issued to them in the islands, and they had fetched this ammunition back, and, of course, they carried it with them.

Q. When you gave away a clip of the Springfield ammunition, how would you account for that?—A. That might be accounted for by being shot away on the target range for extra shooting.

Q. It would be easy to account for that?—A. Easy to account for it; yes, sir; because a man, you know, on target practice is allowed to have so much ammunition, but that is not saying that he uses all of it. You take a poor shot and a good shot, and the good shot will not waste much ammunition. Another man who is a poor shot will come along, and each company commander is trying to qualify him to get him out of the second class, because it is a hard pull when a man only makes second class. They want to get him up to first class, to qualify him, and he is bound to use so much more ammunition. When we got these new guns we did not know much about them, and everybody tried to classify as high as possible. I know I did.

Q. You tried to save all your ammunition that you could?—
A. Yes, sir.

Q. For instance, if you had 15 or 20 extra rounds of Springfield ammunition in clips, where would you keep it?—A. Generally keep them in the belt, sir.

Q. I know, but you were allowed so much in your belt—only 10 rounds?—A. Ten rounds.

Q. But if you had this extra ammunition, where would you put it?—A. Just lay it right in the locker; we have a wooden locker and we have a barrack bag at the head of the bed. The barrack bag is a bag made of canvas. We are supposed to put our dirty clothes in it and old clothes, and it is a bag about that long [indicating] and of course there is something at the bottom, and we throw them in there.

Q. You would throw these extra clips in there?—A. Yes, sir; or in the locker or any place.

Q. Or in the locker?—A. Yes, sir.

By Senator FOSTER:

Q. Are these lockers ever inspected by the inspection officer?—
A. Inspected every Saturday morning by the company commander—not to take everything out, but our clothes are folded up and they lie right in the locker. The tray is taken out from the locker and is put up leaning against the lid of the locker, so that it is on a slant, and if a soldier is wise he can place a lot of stuff under there—and the officer never minds about the bottom of the locker as long as he can see the top; he comes right along and goes out.

Q. When you made this proposition to Mr. Starck about selling him a lot of Krag cartridges, did you make that proposition at the suggestion or instance of the quartermaster?—A. The quartermaster-sergeant, sir.

Q. The quartermaster-sergeant authorized you to make that offer?—A. No; I was given this order by the artificer. He is now Corporal Ryan. He said: "If you know anybody in town that wants to buy any Krag ammunition let me know." I said: "I believe Fred Starck wants to buy some. He is the customs officer." So I was coming along on the wagon one day, and I stopped in front of the office and I said: "Say, Fred, we have got a lot of ammunition up there; do you want to buy some?" He said: "What do you want for it?" I said: "A cent and a half." He said: "That is too much." Well, I went home and just told what he told me.

Q. You told him you had about 2,000 cartridges?—A. Oh, yes; I guess there was more than 2,000.

Q. Did the sergeant tell you how many rounds of cartridges he had at that time to sell?—A. Well, there was, as I say, between five and seven thousand rounds of ammunition at the time.

Q. Five to seven thousand rounds?—A. Yes, sir; thrown in a box loose.

Q. Where was the ammunition kept by the quartermaster-sergeant?—A. In the storeroom, sir.

Q. The Krag rifle was then in use, was it not, by your command?—
A. No, sir; the Krag rifles had all gone out. They had all been issued the new guns—the Springfield rifle.

Q. I understood you in your examination in chief to say that you

told Mr. Starck also that you had a lot of Springfield ammunition?—A. No, sir; there must be a mistake there.

Q. You did not make that statement?—A. No, sir; I did not make any statement about not having a lot of Springfield ammunition. I said the ammunition was plentiful on the range—the Springfield ammunition was plentiful.

Q. Were you authorized by the quartermaster-sergeant to sell the Springfield cartridges?—A. No, sir; never was authorized to sell any. It was the Krag ammunition that I was authorized to sell, after the gun went out of use.

Q. Did you ever hear of that being done in your company or regiment before?—A. I never did, sir.

Q. Of the quartermaster-sergeant selling ammunition?—A. I never did.

Q. That is the only time you ever heard of it?—A. That is the only time.

Q. Didn't that strike you as strange that the quartermaster-sergeant should be selling property of the United States Government?—A. Not in that instance, because the gun was out of use, and it would have to be shipped back all the way, and somebody got the benefit of it anyway, if not at that time, with all that surplus ammunition. If they did not at that time it would be strange to me.

Q. These rangers that you met over there, how often had you met them before?—A. Oh, I have been with the rangers off and on. I was stationed down there from 1886, and I was down there during the Garcia campaign of 1891 to 1893, and then I went down there in 1903 again, and I met a lot of rangers that I knew down there.

Q. Now, can you tell the committee what kind of rifle they were armed with?—A. Well, I always understood it was the .30-30, sir.

Q. The .30-30 is what?—A. It is a gun that is something like the Winchester—made on the same principle as a Winchester—and I know that it shoots the same ammunition that we did when we used the Krag rifle, because I have seen them put it in there and shoot it myself. I have seen them shoot it. I would not swear to the kind of gun at all, but I always understood it was a .30-30.

Q. Do you know the make of the gun?—A. Well, yes.

Q. Do you know the name?—A. I never asked the name—never took it into consideration at all.

Q. Did you ever see them shoot any Springfield cartridges out of that gun?—A. I never did. I never saw them shoot any Springfield cartridges out of any gun but the gun that we now have. Of course we have the late model now, the model of 1903. Of course I believe they call it the model of 1903. I can not very well understand it, but the gun was issued before.

Q. The gun was issued before 1903?—A. No; this Springfield gun—you know the one I mean—it has been improved with the bayonet.

By Senator WARNER:

Q. It has the knife bayonet instead of the rod bayonet?—A. Yes, sir. When we first got the gun we had just a little rod bayonet. I have never seen any other gun shoot this Springfield ammunition.

By the CHAIRMAN :

Q. Did the Krag-Jørgensen ammunition fit the new model Springfield?—A. No, sir.

Q. You could not use it in the Springfield?—A. I don't think you could.

Q. And that is the reason you offered it for sale, because you could not use it with the Springfield?—A. Well, no; it was surplus ammunition. It was there for sale.

Q. I understood you to say that surplusage is always sold for the company's fund, unless somebody took the money and put it in his pocket, and that applies to commissaries, but was that supposed to apply to ammunition or clothing?—A. Not to ammunition or clothing; no, sir.

Q. Did you sell clothing that way when you had a surplus?—A. No, sir; we are not supposed to sell clothing at all. Of course, that is the soldier's own property.

Q. Would it not be the same as to cartridges?—A. Well, not exactly, no; because the quartermaster-sergeant is supposed to keep all ammunition and guns under lock and key. The clothing is the soldier's own property after he has served his enlistment.

Q. Being his own property, do you understand that he is permitted to sell it?—A. Yes, sir; after the end of his enlistment he has a right to sell his surplus clothing.

Q. That is your understanding of the law and the regulations, is it?—A. That is pretty near right, sir.

Q. You give me that then as information that that is the law?—A. Yes, sir; after you have drawn your clothing and you are discharged from the service of the United States.

Q. No; but while you are in the service of the United States?—A. After you are discharged from the service of the United States, after the end of your three years' service, you have lots of surplus clothes on hand, and when you reenlist again you can draw that amount of clothing.

Q. I am talking of the time when you are in the service; if you are in the middle of your service and you have more coats or caps than you want.—A. No, sir; we are not supposed to sell any clothing at all.

Q. When you say you are not "supposed to," what is your understanding of the law?—A. Well, we are not allowed to do it.

Q. You are not allowed to sell your guns, are you?—A. No, sir; not allowed to sell guns or ammunition or anything.

Q. You are not allowed to sell your ammunition?—A. No, sir.

Q. Then, this ammunition you sold, you were selling against the regulations and against the rules of the Army, were you?—A. If we were ordered to do it, we would sell it.

Senator FOSTER. Ask him right there if he was authorized to give the ammunition away.

By the CHAIRMAN :

Q. I take it for granted that you would not be authorized to give anything away that you could not sell?—A. Well, I never heard anything—the Articles of War do not say that you can not give it away. You are not supposed to give ammunition away in a hostile country, but when it is surplus and you are out on the road and a friend asks you for a few rounds of ammunition, you would surely give it to *him*.

By Senator FOSTER:

Q. So that surplus ammunition was on your surveying party?—
A. Yes, sir; surplus ammunition, just the same as if I wanted to go out hunting. I would say, "Give us some ammunition," and he would say, "There is the box; go and help yourself."

By Senator FORAKER:

Q. What you did in this matter you did under the orders of the quartermaster-sergeant?—A. Yes, sir.

Q. You did not give the order?—A. No, sir.

Q. You simply obeyed the order?—A. Simply obeyed the order; yes, sir.

Q. And you know they had a large amount of surplus ammunition, but you don't know how it accumulated, but you understand it was brought back from the Philippines?—A. It was brought back from the Philippines.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Just one question. When was it you went out in your surveying party?—A. I went out there about the 2d of July.

Q. What year?—A. 1905, with Lieutenant Harris.

Q. You are quite clear about that?—A. Yes, sir.

By Senator FOSTER:

Q. That was before you got the Springfield rifle?—A. Yes, sir; the year before we got it.

By Senator FRAZIER:

Q. I want to ask you about the surplus ammunition that you say you soldiers got on the target practice down at Point Ysobel. Now, each soldier would keep his own surplus and bring it back up to Brownsville with him, would he?—A. Yes, sir.

Q. And put it in his locker?—A. Yes, sir.

Q. From your twenty years' experience in the Army, you found out that soldiers as a rule nearly always have plenty of surplus ammunition in their lockers, don't they?—A. Always do.

Q. Always do—have no trouble about that at all?—A. No, sir. At Fort Sam Houston to-day I have surplus Springfield ammunition lying in my box.

Q. You don't know how much you have?—A. No, sir; I don't know how much I have, but I have a surplus. We are issued 10 rounds, and if we do not have that at the end of our enlistment he charges it up.

Q. But you get a surplus and you keep that, then, in your locker?—
A. Yes, sir.

Q. Where do you keep the 10 rounds that are issued to you by the sergeant?—A. In the cartridge belt.

Q. In the cartridge box or in your belt?—A. Yes, sir.

Q. And this surplus you keep in your boxes or lockers or wherever you want to?—A. Yes, sir.

Q. And it is no trouble for you to pick it up in different ways?—
A. No, sir; no trouble at all.

Q. And that custom prevails not only in the regiment you are now connected with, but in all regiments?—A. All regiments.

Q. That you have been connected with for the last twenty years in the Army?—A. Yes, sir.

Q. Twenty-two years?—A. Yes, sir.

Q. So that it is no trouble for a soldier to have plenty of surplus ammunition in his locker, and he generally does have, doesn't he?—

A. He generally does.

TESTIMONY OF JOSEPH J. BARNETT.

JOSEPH J. BARNETT, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please state your full name.—A. Joseph J. Barnett.

Q. You are in the military service?—A. Yes, sir.

Q. What organization do you belong to?—A. Company K, Twenty-sixth Infantry.

Q. Were you with that regiment at Brownsville while it was stationed there?—A. Yes, sir.

Q. How long have you been in the service?—A. Sixteen years.

Q. What other regiments have you served with, if any, than this?—

A. My first service was with the Twenty-third Infantry; then I was with the Fifth Infantry; then I was seven years and a half in the Hospital Corps.

Q. You were with what company in the Twenty-sixth?—A. Company K.

Q. How long did you serve in that company?—A. I enlisted in Company K in December, 1896.

Q. Were you with that company in the Philippines?—A. No, sir.

Q. Where did you join it in 1896?—A. In Fort Brown. I re-enlisted at Fort Sam Houston, Tex.

Q. You mean 1906?—A. Yes, sir.

Q. You enlisted in the Twenty-sixth Infantry in 1906?—A. Yes, sir.

Q. You had not served with that regiment prior to that time?—A. No, sir.

Q. What time in 1906?—A. December.

Q. 1906?—A. 1905, I should say.

Q. December, 1905?—A. Yes, sir.

Q. You have been with the Twenty-sixth Infantry ever since December, 1905?—A. Yes, sir.

Q. But you were not with it prior to that time?—A. No, sir; I was not.

Q. You were not with it, therefore, in the Philippines?—A. No, sir.

Q. Can you tell us whether or not, while Company K was at Fort Brown, during the time you were connected with it, it had a large surplus of ammunition; and if so, how it acquired it, if you know?—

A. Well, I do not know anything about a large surplus of ammunition while I was there, but I know there was a great deal of ammunition loose there. I have seen men that seemed to have plenty of it.

Q. I mean over and above what was regularly issued to the men?—A. Yes, sir.

Q. Was that enough to attract your attention—was it an unusual amount which they seemed to have?—A. Well, there was a great many of the men that occasionally would go out on hunting parties. They had access to the ammunition, and when they returned they would not turn it in. They would keep it in their possession in their lockers.

Q. Were you with your company when it left there to go to Fort Sam Houston?—A. Yes, sir; but I remained behind.

Q. You were in the detachment that remained behind?—A. Yes, sir.

Q. How many men remained behind?—A. There was 20, I believe, sir.

Q. There were 10 for each company, were there not?—A. Yes, sir; probably 30. I don't know how many, sir.

Q. There were four companies?—A. Yes, sir.

Q. Do you remember how many were left behind from your company?—A. There was 10, I believe, sir.

Q. Lieutenant Thompson was left behind in command?—A. Yes, sir.

Q. Were you of that detachment?—A. Yes, sir.

Q. Now, can you tell us in what condition the quarters of your company were left? First, tell me whether or not there was any additional ammunition issued to the men immediately before they left Fort Brown for Fort Sam Houston.—A. No, sir; I could not answer that, for we had just returned from the target practice, and they went from Fort Brown to Camp Maybury, but I am under the impression that they were issued 10 rounds.

Q. Before they left there?—A. Yes, sir.

Q. Ten additional rounds?—A. Yes, sir.

Q. I did not know whether you knew or not. You were left behind with the detachment?—A. Yes, sir.

Q. You did not go away with them?—A. No, sir.

Q. Did you see the quarters after they vacated them; and if so, in what condition were they? What was left behind, if anything?—A. When the troops left there the quarters were in a topsy-turvy condition, quite a bit of cast-off clothing, and in cleaning up we found quite a bit of ammunition.

Q. How much ammunition did you find there, and what kind of ammunition was it?—A. We found both the Krag and the Springfield.

Q. Found some Springfield ammunition left behind?—A. Yes, sir.

Q. Were you one of the party that assisted in cleaning up the barracks?—A. Yes, sir.

Q. This was after this battalion had gone away?—A. Yes, sir.

Q. How much Springfield ammunition was left behind, if you can tell?—A. Well, I could not give you the exact amount, but there was a great deal; probably 500 or 600 rounds.

Q. Five or six hundred rounds of Springfield ammunition?—A. Yes, sir.

Q. In what condition was that left? Was it in boxes or cases, or what?—A. It was left in the men's lockers.

Q. Go ahead.—A. In cleaning up the quarters we found ammunition lying around on the shelves, and some of it rolled up in paper stuck away in secret places around the room, and we took all that out and threw it in a box; and what became of the ammunition after we threw it out in the yard I don't know.

Q. After you put the ammunition in the box what did you do with the box?—A. We threw the box out on the back porch, and the box disappeared. I do not know exactly what became of it.

Q. How much ammunition was in the box when you put it on the

back porch?—A. I do not know, sir. In cleaning out Company K's quarters there were 200 or 300 rounds. And then we moved up to Company M and went through that. And the khaki clothing, we threw that out.

Q. What kind of clothing was that? Cast-off clothing?—A. Yes, sir.

Q. Garments of different kinds?—A. Yes, sir.

Q. I will ask you to specify whether or not you found any bandoliers lying around.—A. Yes, sir; we found one in K Company's quarters.

Q. Found one in K Company's quarters?—A. Yes, sir.

Q. Did you find any more than one?—A. No, sir. I remember one, distinctly.

Q. How do you happen to remember the one distinctly?—A. Because I found that in the first sergeant's room. I thought it strange of him being so careless in having left that amount of new ammunition.

Q. Was this bandolier filled with ammunition?—A. Yes, sir.

Q. Oh, you found one bandolier filled with ammunition in the first sergeant's room?—A. Well, in his sleeping room, downstairs.

Q. Well, now, did you find any bandoliers that had been emptied?—A. Oh, there was quite a lot of them.

Q. Quite a lot of those?—A. Yes, sir.

Q. That is, bandoliers out of which the ammunition had been taken?—A. Yes, sir.

Q. Left behind?—A. Yes, sir.

Q. Scattered through the barracks?—A. Yes, sir.

Q. What did you do with them?—A. We threw them out in the trash pile.

Q. Out in the back yard?—A. Yes, sir.

Q. In the rear of the barracks?—A. Yes, sir.

Q. I will ask you whether the Mexicans and the children and the people generally that wanted to come into the fort at that time were coming, and whether or not they were picking up such things as that and carrying them away?—A. Yes, sir; there was a class of people there that we called scavengers. They are ready at any time that you throw anything out that way to pick it up and take it away.

Q. Do you know anything about selling this ammunition?—A. No, sir; I do not.

Q. You had nothing to do with anything of that kind?—A. No, sir.

Q. Can you tell us what kind of a gun the Texas Rangers were armed with?—A. I have been told that all of them had guns that shoot our ammunition—that is, the army ammunition.

Q. Have you any personal knowledge about that?—A. No, sir; I never examined any of their guns. There are quite a number of those people who have asked me for our ammunition.

Q. When did you arrive here?—A. This morning.

Q. Just got in a while ago, did you?—A. Yes, sir.

Senator FORAKER. That is all. I may want to recall this witness later.

By the CHAIRMAN:

Q. I want to ask one question. You said that the rangers used *the* ammunition that the soldiers used. Did you mean Krag-Jörge-

sen or Springfield ammunition?—A. They used the Krag ammunition, and later I was told that they had got guns that would shoot the Springfield.

Q. Both kinds of ammunition?—A. No, sir; I guess not. We can not shoot them both in the same gun.

Q. But you were informed that they had guns that would shoot them both?—A. Yes, sir.

By Senator WARNER:

Q. You do not know anything about this?—A. No, sir.

Q. You do not know what kind of guns they had?—A. No, sir.

Q. Do not know what the caliber of their guns was?—A. No, sir.

Q. Or what kind of ammunition it would shoot?—A. No, sir; but it must have been the same as ours, for some of those people have asked me if I could get it for them. I told them I was not peddling ammunition.

Q. You were asked if you knew anything, of your own knowledge, about the caliber of their guns.—A. No, sir.

Q. You have said that somebody asked you for ammunition. Who was that?—A. That was people at Brownsville, down there, some civilians; I could not call their names.

Q. They had nothing to do with the Texas Rangers?—A. No, sir.

Q. And your reply was that you were not peddling ammunition?—A. Yes, sir—Government ammunition.

Q. It was a customary thing, was it, to give a person clips of ammunition?—A. I think it was; I would not be positive.

Q. Well, you have been a soldier for four years.—A. Sixteen years.

Q. All of this time in the Army?—A. Yes, sir.

Q. What is your position?—A. I am a clerk in the Quartermaster's Department at present.

Q. So you would be in a position to know those things?—A. Well, no; not as much as other men would.

Q. But you do know the fact, you say, that it is not an infrequent thing to give away a clip of ammunition?—A. Yes, sir.

Q. How would the soldiers get this extra ammunition? Just state it to us from your knowledge.—A. That would depend upon the quartermaster-sergeant of the company. If he was a good fellow, he would give it to them. A great many go out on hunting trips, and when they come back they do not turn in their ammunition.

Q. They do not turn it in, but throw it in their locker or in a box, or just as they please?—A. Yes, sir.

Q. Now, the Twenty-sixth Infantry had good discipline, did it not?—A. Yes, sir.

Q. What other regiments have you served with?—A. I have served with the Twenty-third, the Fifth Infantry, and the Hospital Corps.

Q. They were all well-disciplined regiments, were they?—A. Yes, sir.

Q. The Twenty-sixth compared favorably with any of them, didn't it?—A. Yes, sir.

Q. This custom which you speak of prevailed—it was not peculiar to the Twenty-sixth to give a clip of ammunition to a party?—A. Well, it was not customary, but if they would meet a friend and he would ask them for it, probably they would give it. It was not customary; no, sir.

Q. But that is not peculiar to the Twenty-sixth. It would be just about the same in any other regiment you have ever served with as it would be in the Twenty-sixth?—A. Yes, sir; certainly.

Q. Now, I have understood you to say that you found some ammunition in Company K's quarters in sweeping up?—A. Yes, sir.

Q. Five or six hundred rounds of Springfield ammunition?—A. Springfield and Krag-Jørgensen.

Q. About how much of it was Springfield ammunition?—A. Probably 150 or 200 rounds. The boys had just come in from the target range, and they all had extra ammunition that they had not turned in on leaving the target range.

Q. My little note which I made—it may not be correct, and therefore you need not be bound by it—was that you said "five or six hundred rounds of Springfield ammunition."—A. No, sir. I meant Springfield and Krag—the two.

Q. How many rounds, would you say, of the Springfield ammunition?—A. Springfield, 150 or 200, and the Krag I do not know; there was quite a bit of that. I do not know how much, but that was not issued any more, and just thrown away.

Q. This Springfield ammunition was ammunition that had not been discharged—it was ball ammunition?—A. Yes, sir.

Q. In clips?—A. Yes, sir; in clips and loose.

Q. And loose?—A. Yes, sir; the majority of it was loose.

Q. Did you go in any other quarters there excepting Company K's?—A. Yes, sir.

Q. What did you find as to ammunition in the other quarters?—A. We found it through all the quarters.

Q. There were four companies in your regiment located there?—A. Yes, sir.

Q. What was the next company barracks to K?—A. M Company.

Q. You found the same condition there as to ammunition, did you?—A. Well, not as much. I did not find as much ammunition there as I did in K Company.

Q. But you found both Springfield and Krag ammunition lying around?—A. Yes, sir.

Q. What was the next?—A. L Company, sir.

Q. What was the condition as to ammunition there?—A. There was some there, especially the Krag. There was no Springfield—I do not remember any Springfield.

Q. What was the next company?—A. I Company.

Q. What was the condition there?—A. About the same as the other companies, some ammunition loose.

Q. So, altogether you must have found from 500 to 1,000 rounds of Springfield ammunition?—A. Not of Springfield alone, but the Springfield and the Krag.

Q. Well, there were from 150 to 200 rounds of Springfield in K Company quarters?—A. Yes, sir; but there was not as much Springfield ammunition in the other quarters as there were in K Company's quarters.

Q. But there was quite an amount in each of them?—A. Yes, sir.

Q. What did you do with the Springfield ammunition?—A. It was all picked up. We picked it up and put it in boxes and set

it on the back porch, and it disappeared. I do not know what became of it.

Q. What did you do with the Krag ammunition?—A. We threw it all in the box together. It disappeared; I do not know where it went.

By Senator FORAKER:

Q. That is the Springfield ammunition you refer to?

Senator WARNER. And the Krag.

The WITNESS. The Springfield and the Krag. The two were together.

Q. Did you see another box of ammunition out there on the back porch?—A. When our company got back from the target range there was some ammunition in the back yard, thrown off the wagon, that lay there loose for a couple of days.

Senator FOSTER:

Q. For the Springfield?—A. Yes, sir.

By Senator WARNER:

Q. Lying loose—what do you mean by that?—A. It was just in the rear of the quarters. It dropped off the wagon as we were coming in from the target range.

Q. That was the box in which it was shipped from the arsenal?—A. Yes, sir. The top of it had been opened and some cartridges had been taken out.

Q. The box was opened so that the bandoliers were in there?—A. Yes, sir.

Q. There was a whole box of that, nearly?—A. Yes, sir; the box was full.

Q. There were about twelve hundred rounds, I think, of ammunition in a box.—A. A thousand or twelve hundred, I don't remember which.

Q. And then there would be in this box how many—was the box nearly full?—A. Yes, sir. I spoke to the quartermaster-sergeant about being so careless with it.

Q. Did you pick it up?—A. No, sir.

Q. Did the quartermaster-sergeant?—A. I suppose it was picked up and turned in to the arsenal.

Q. Do you know where it went?—A. It disappeared from there, and that is where I suppose it went.

Q. You saw nobody pick it up?—A. No, sir.

Q. It was just lying out there loose?—A. Yes, sir.

Q. Sometimes this ammunition, you say, would be stuck up around in secret places?—A. Yes, sir; that is, not in secret places, but on shelves, rolled up in paper.

Q. Yes. You used the term "secret places." You mean just put on a shelf?—A. Yes, sir.

Q. And that was common in barracks, was it?—A. Yes, sir.

Q. During your term of service?—A. Yes, sir.

Q. All your term of service that condition existed?—A. Yes, sir.

Senator WARNER. That is all that I wanted to ask him.

By Senator FOSTER:

Q. Just one question. When you say that these cartridges were placed in a box, and that box placed on the porch and the box disappeared, do you mean that it disappeared by reason of being taken by the soldiers or officers?—A. No, sir; I am of the impression that it was turned in. I spoke to the quartermaster-sergeant of our company and I said, "You are very careless with this ammunition. There are people in this town, if they wanted it, would just come and help themselves to it," and he said, "Yes; I have been thinking of that, and I will attend to it at once." And that afternoon I passed down the rear of the porch and noticed that it had been moved, and I thought probably the quartermaster-sergeant moved it.

By Senator FORAKER:

Q. I understand that you were one of the men specially appointed to clean up the barracks?—A. Yes, sir.

Q. And you took all these things out of the barracks that you found there?—A. Yes, sir.

Q. Which you have described, and you put them on dump piles or out on the porch in boxes?—A. Yes, sir.

Q. And all that you know is that they disappeared?—A. Disappeared.

Q. But, as you stated a while ago, scavengers were coming and going all the while, picking up things?—A. Yes, sir.

Q. And there was no one on guard to keep anyone from taking anything they chose to take?—A. No, sir; there was no one on guard. I know they taken all that clothing away, because I seen the little Mexican boys going away with their arms full of it.

Q. They could get clothing and bandoliers?—A. Yes, sir.

Q. And they could get ammunition and shells—empty shells—exploded shells?—A. Yes, sir; no one paid any attention to that.

Senator FORAKER. That is all.

By Senator FOSTER:

Q. What kind of rifle was your command armed with when it went to Fort Brown?—A. They were armed when they went to Fort Brown with the Krag-Jørgensen; but just before we went to the target range we were armed with the Springfields—the new rifle.

Q. When did you go to Fort Brown?—A. In December, 1905.

By the CHAIRMAN:

Q. I want to ask the witness one question. You speak of ammunition having been issued for hunting. Was that done regularly from the ordnance officer when parties were going out hunting?—A. That was done by the quartermaster-sergeant. They would get those hunting passes.

Q. That was issued, was it?—A. Yes, sir.

Q. How large an amount was usually issued to a man for hunting purposes?—A. They would get probably 50 or 100 rounds.

Q. That is issued out of the regular store without charging it to them?—A. I don't know whether it was charged to them or not.

Q. They do not have to pay for it?—A. No, sir.

Q. When they come back are they supposed to account for it by turning in the unused part?—A. I don't know, sir, whether they were supposed to turn it in or not.

Q. But it is usual to issue ammunition in that way to parties going hunting?—A. Yes, sir.

The CHAIRMAN. That is all.

By Senator FORAKER:

Q. You speak about finding a bandolier filled with Springfield ammunition in the orderly's room?—A. Yes, sir.

Q. Where was that, if you remember; was it hanging up or lying down?—A. It was hanging up in the sergeant's bedroom.

Q. It was hanging up in the sergeant's bedroom?—A. Yes, sir.

Q. Hanging up on a hook in the wall?—A. Yes, sir.

Q. Nailed on the wall?—A. Yes, sir.

Q. State whether or not there was also a part of a bandolier of ammunition there, a bandolier partly filled.—A. I don't remember of seeing one partly filled.

Q. But you do remember about the bandolier that was filled?—A. Yes, sir.

Q. Do you know Henry Watson?—A. Henry Watson of M Company of the Twenty-sixth?

Q. He testified here the other day. I think he was of K Company.

Senator FOSTER. No; I think he was of M Company.

Senator FORAKER. I have not his testimony now, but he said there was a bandolier and a part of a bandolier hung up in the orderly's room, which ought to have been thrown on the wagon the next morning, but they forgot it and left it behind.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF CORPL. WILLIAM RYAN.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. What is your full name?—A. William Ryan.

Q. What company do you belong to?—A. K Company, Twenty-sixth Infantry.

Q. Were you with that company when it was at Fort Brown, Brownsville, Tex., last year, and before?—A. Yes, sir.

Q. How long did you serve with that company?—A. I am on my fourth year with it, sir.

Q. Your fourth year with that company. Were you with that company all the time it was at Fort Brown? I mean, did you join before it went there or did you join after it went there?—A. I joined about seven months after it was there. I was stationed in the fort before that with the Hospital Corps, and after my time expired I reenlisted in K Company of the Twenty-sixth Infantry.

Q. You are a corporal now?—A. Yes, sir.

Q. What position, if any, did you hold with that company while you were at Fort Brown?—A. I held a corporalship and later an artificership, and now I hold a corporalship.

Q. When were you artificer for the company?—A. I have been artificer on two different occasions. The last time I was appointed was about a year ago.

Q. I will ask you whether or not you were the artificer of that

company from January, I will say, 1906, up to the time when the battalion left Brownsville?—A. I was, sir.

Q. You were artificer at that time?—A. Yes, sir.

Q. What is your duty as artificer?—A. My duty is to assist the quartermaster-sergeant in his duties, to do all mechanical work, repair work, etc., for the company.

Q. You are his assistant?—A. Yes, sir.

Q. In general?—A. Yes, sir; and practically am under his orders at all times.

Q. You were not with Company K while it was in the Philippines, as I understand?—A. I was not, sir.

Q. Do you know whether Company K while it was at Fort Brown, during the time you were with it and particularly at the time it left there, had any surplus ammunition on hand, and if so, what kind of ammunition was it, and if you know, tell us how it acquired that surplus ammunition that it had on hand.—A. Well, there are a good many ways to acquire surplus ammunition in the Army.

Q. I will ask you particularly as to what I am speaking about now; you were not with it in the Philippines, I understand?—A. No, sir.

Q. Do you know of any considerable amount of ammunition being brought back by it and being condemned and other ammunition being issued in place of it?—A. Yes, sir; I know of that. There was probably in the neighborhood of between 2,000 and 5,000 rounds; I couldn't say exactly, because the majority of it was loose ammunition.

Q. Loose ammunition?—A. Packed in the ammunition boxes.

Q. Not in clips. You did not have the clips with the Krag-Jørgensen?—A. No, sir; we did not have clips with the Krag-Jørgensen.

Q. But you mean by "loose ammunition" not in cases or boxes?—A. It wasn't in cases or boxes. Krag ammunition was shipped 20 rounds in a pasteboard box, and there was a thousand rounds, including these cases, in each case; but the ammunition came back from the Philippines; I have seen it and handled it, and it was loose entirely in the wooden boxes.

Q. I will ask you whether or not this ammunition as brought back from the Philippines was condemned?—A. It was condemned and replaced by the new ammunition.

Q. But it was never taken away from the companies?—A. No, sir; it remained there.

Q. And that amounted to how much, do you say?—A. Several thousand rounds.

Q. Several thousand rounds?—A. Yes, sir.

Q. Now, I will ask you if you know anything about anybody getting any of that Krag-Jørgensen ammunition from K Company while you were there?—A. Well, I know of one H. M. Fields, in the city of Brownsville, that purchased 1,000 rounds of ammunition from K Company.

Q. Now tell us who H. M. Fields is; what kind of business is he engaged in?—A. He is engaged in general business; I don't know exactly how to express it; but he handles anything in most any line that a man would see fit to engage himself in, it doesn't matter what.

Q. That is, he buys guns or ammunition or clothes?—A. Yes, sir; he would buy anything; any old brass or copper.

Q. Brass or copper, or anything at all?—A. Yes, sir; old guns, bones, rags—anything at all.

Q. He carries on that kind of business?—A. General line of business.

Q. In Brownsville?—A. Yes, sir.

Q. Where is his place of business; on what street, or on the corners of what streets?—A. I don't know what the streets are. The town is hardly large enough for a man to try to familiarize himself with any of the streets; but it is northwest of the fort, I should say, probably three-quarters of a mile.

Q. Do you know where the Miller Hotel is?—A. Yes, sir.

Q. That is, as you go up from the fort?—A. On Elizabeth street.

Q. Elizabeth street?—A. Out from the fort.

Q. And then still farther out is the Miller Hotel?—A. Yes, sir; northwest, the Miller Hotel.

Q. That is, it would be, as you go up Elizabeth street, off to the right of Elizabeth street?—A. Yes, sir; you go up Elizabeth street as far as the First National Bank, and then it is out to the right.

Q. He was a dealer in all kinds of rifles?—A. Yes, sir; everything.

Q. And you say you know of his purchasing a thousand rounds of this Krag-Jørgensen ammunition, was it?—A. Yes, sir.

Q. And what time did he purchase that ammunition, and what do you know about it? Just tell us in your own way what you know about it.—A. Well, as well as I remember, it was somewhere during the month of June the quartermaster-sergeant came to me—

Senator WARNER. Of what year?

By Senator FORAKER:

Q. June of what year?—A. Of 1906.

Q. That is last year?—A. Yes, sir. He came to me and he told me, he says: "Ryan," he says, "go in the storeroom and get out a thousand rounds of that Krag ammunition, and put the box inside of a kerosene box and nail it up," and he says: "There will be a hack up in a few minutes, and deliver it to H. M. Fields, and collect the money for it when it will be turned over."

Q. He told you to deliver it?—A. Yes, sir.

Q. Did you or not obey his orders?—A. I did, sir.

Q. And delivered it to Fields?—A. I delivered it to Fields and collected the money and returned it to the sergeant.

Q. To whom did you deliver it; to what individual did you deliver it, do you know?—A. It was one quartermaster-sergeant, Joseph Cheesman.

Q. I say to what individual did you deliver it?—A. I haven't any recollection. They were all Mexican clerks. I put it off, and there was a man met me at the door, and I pointed to the box and told him that was the ammunition he had contracted for, and he said, "Wait a minute," and then in a few minutes he came back and he said, "It's all right; just put it back inside here;" and then he opened it up and examined it to see that it was all there.

Q. How much did he pay you for it?—A. Ten dollars.

Q. He paid you \$10?—A. Yes, sir.

Q. And there were a thousand cartridges of that?—A. A thousand rounds; yes, sir.

Q. A thousand rounds. A cent a cartridge?—A. Yes, sir.

Q. And that, you say, according to your best recollection, was in June, 1906?—A. During the month of—

Q. How do you fix the time in your own mind?—A. The way I can say positive about that, the company at the time was at the target range at Point Isabel.

Q. Yes.—A. And they didn't leave there till the last day of May, and the company was gone at the time I delivered the ammunition, so that I know it was bound to be in the month of June.

Q. That is one instance. Now, do you know of any other sale or gift of cartridges out of that Krag-Jørgensen surplus to any citizen of Brownsville?—A. Yes. One day during the month of June I received an order from Corporal Means, at that time company clerk of K Company, to wrap up 200 rounds of Krag-Jørgensen ammunition, and I asked him what he wanted it for—it was a part of my business to know that, because it was in the absence at the time of the quartermaster-sergeant, and I was directly responsible for the storeroom supplies of the company—and I inquired into his authority for demanding this ammunition, and he told me he had a written order from the company commander.

Q. Who was the company commander?—A. One Lieut. Allen Parker.

Q. Allen Parker was commanding the company?—A. Yes, sir.

Q. And he told you that he had an order from Lieutenant Parker, the company commander, to do what, now?—A. To wrap up this ammunition and deliver it to United States Commissioner Creager, of Brownsville.

Q. United States Commissioner Creager, at Brownsville?—A. Yes, sir.

Q. Did you or not get that ammunition?—A. Yes, sir.

Q. And prepare it in the way directed?—A. Yes, sir.

Q. What did you do with it?—A. Turned it over to Corporal Means to be delivered.

Q. Do you know whether he delivered it?—A. I do not, sir.

Q. Did you know Mr. Creager?—A. I do, sir.

Q. Did you see him about there?—A. No, sir.

Q. You do not know whether he came there and got it or whether Corporal Means took it and delivered it to him, or anything else about it?—A. The only thing I know about it is that the corporal told me "Mr. Creager was here this morning and got that ammunition."

Q. He told you what?—A. He told me that Mr. Creager was there that morning and got the ammunition.

Q. That is the quartermaster-sergeant?—A. He was company clerk, and was left there in charge of quarters.

Q. Who was it told you that he got it?—A. Corporal Means.

Q. Corporal Means?—A. Yes, sir.

Q. He was a noncommissioned officer in charge of quarters?—A. Yes, sir.

Q. While the company was down at the target range?—A. Yes, sir.

Q. Was there any money paid on account of that, to your knowledge?—A. I haven't the slightest idea, sir.

Q. All you know is you executed the order when it came to you?—
A. Yes, sir.

Q. And that is all you know as to the other order?—A. Yes, sir; that is all.

Q. What time was that? Was that while the—A. Sometime during the month of June. I don't exactly remember the date.

Q. Was it about the same time when the thousand rounds were delivered to Fields?—A. On or about the same time; yes, sir.

Q. On or about the same time. Your company was all the while down at the target range?—A. Yes, sir.

Q. Now I will ask you whether or not your company had any surplus guns or anything of that kind?—A. Yes, sir; they did.

Q. What kind of guns did they have, and how much of a surplus did they have?—A. Well, the only surplus guns I know of that they ever had were six—I know of six.

Q. What kind of guns were they?—A. They were what was known as the "Krag-Jørgensen" rifles.

Q. How did you come to know that they had six extra or surplus guns?—A. Well, at the time we received this new Springfield rifle we had orders to pack and ship these old Krag-Jørgensen rifles back to the arsenal.

Q. Yes.—A. And that was my duty—to pack these rifles.

Q. Your duty as artificer?—A. As artificer; yes, sir; to pack these rifles and ship them or turn them over to the quartermaster for shipment, rather, and in packing these rifles, or before I started to pack them, the quartermaster-sergeant came to me and told me, he says: "Ryan, pick out six of the best rifles there is in this whole lot"—there was about 65 or more—"and retain them," he says. "They are surplus rifles, and we don't want to turn them in. We just want to turn in what we are accountable for."

Q. That is, they did not want to turn in the extra ones, but just those that they were actually accountable for?—A. Yes, sir.

Q. Did you or not execute that order of the sergeant to pick out six rifles and keep them?—A. Yes, sir.

Q. Krag-Jørgensen rifles?—A. Yes, sir.

Q. To whom did you deliver those, if to anybody?—A. The Kraggs?

Q. Yes.—A. The extra Kraggs?

Q. Yes; the surplus Kraggs.—A. I didn't deliver them to anyone that I know of.

Q. First let me ask you this: Those were put in arm chests, were they?—A. Yes, sir; all those that were shipped were put in their original arm chests.

Q. They were all shipped to the arsenal?—A. Yes, sir; in their original arm cases.

Q. What was done with those six rifles?—A. They were left in the storeroom.

Q. And the storeroom was in whose charge?—A. In charge of the quartermaster-sergeant and myself.

Q. And yourself as his assistant?—A. Under the supervision of the company commander, of course.

Q. Yes. Now, did you see those six rifles at any time after you yourself reserved them?—A. Yes, sir; I seen them numerous times; time and again I seen them.

Q. When was it, do you remember now, to get the day accurately

in the record, when this occurred?—A. That was some time during the month—that was during the month of June.

Q. During the month of June?—A. Yes, sir.

Q. It was when the exchange was made of the old guns for the new?—A. The exchange of the rifles was made before that; but that was the reason I didn't go with the company to Point Ysobel. I was left there to pack these rifles and ship them.

Q. Was the quartermaster-sergeant left behind and you also?—A. No, sir; he wasn't there; but he came up every few days from the target range.

Q. Where was he when he gave you this order to keep behind six of these guns?—A. He was at the company at that time, down in the storeroom.

Q. That was not down on the range?—A. No, sir.

Q. You say you saw those rifles afterwards; you say they were kept in this room? Where, and in what way?—A. Well, he came to me one day in the storeroom—

Q. I will ask you first, where were they kept in the storeroom?—A. Originally they were kept in the gun racks. There was a temporary gun rack that we could set them in in the storeroom; something like this [indicating gun rack], only it was longer.

Q. Long instead of round?—A. Yes, sir; and it hadn't any lock and key. You could simply set the guns up in that.

Q. And they were put in there?—A. Yes, sir; around in the room.

Q. What was done with those guns? Did you get any further orders in regard to them?—A. Yes, sir; one day the sergeant came to me and he said, "I want you to get a"—he took one of the rifles down, and he said, "You see these numbers on here"—

Q. Let us have that Krag-Jørgensen rifle now, that we have here. Hand it to the witness.

(The gun in question was here handed to the witness.)

A. (Continuing.) He says, "You see these numbers on here?" I says, "Yes." He says, "Can you destroy those numbers on there?" I says, "Yes; I can destroy them easy enough," and he says, "I wish you would destroy these numbers on these six rifles."

Q. Q. M. Sergt. Joseph Cheesman said that; that is the name, that is right, is it?—A. Yes, sir.

Q. Where is the number on that gun you have in your hand, which he asked you if you could destroy?—A. It is on the left-hand side, here, where it says "Springfield Arsenal." Here is the number on this gun, "458919."

Q. Those guns had the numbers put on them in the same way that that gun has?—A. Yes, sir; the same way.

Q. That is a Krag-Jørgensen rifle, is it?—A. I have never seen one like this before. It hasn't the same sights. These sights are different from anything I have ever seen on a Krag [opening and closing breech bolt.]

Q. He asked you if you could take these numbers off; and what did you do about it?—A. I taken the center punch, later on—not immediately, but later on, I taken the center punch—and punched the numbers off. But in the meantime he told me after I did to lay them up on a high shelf, about as high as those bookcases [indicating]—to lay them back up in there, so that in case of an inspector or anybody going through the storeroom, in case they came through it,

they wouldn't see them, so that they wouldn't know they were surplus guns; and he said in case they did find them they would probably want to take them up, and he says "They don't belong to the Government, and so we want to keep them, so just put them out of sight;" and I did so.

Q. He ordered you to take the numbers off, and you did so in that way, did you?—A. Yes, sir.

Q. Now, Corporal, tell us what further was done with those guns, if anything, so far as you know? First let me have the date. Was that in this same month of June, 1906?—A. Yes, sir; that was in the same month.

Q. Now, what became of those guns, if you know?—A. Outside of that, sir, I don't know what ever became of them. My attention was called in regards to the matter here not long ago. I inquired as to the number of guns that was in the company, and I was told there was only two left.

Q. Let me ask you this—shortly after this you left Fort Brown and went to Fort Sam Houston?—A. Yes, sir.

Q. I will ask you whether or not, after you arrived there, any of these guns were found among the baggage or outfit of this company?—A. I never seen but two. I never seen but two left.

Q. Where did you see them, and under what circumstances?—A. Well, I was straightening up the storeroom. I didn't go to Camp Mabry with them. I was left there to straighten up the company property, and to set up the pool table, and straighten up, and do other work, and in straightening up I found these Krag-Jørgensen rifles back among a lot of old ordnance and quartermaster's property and old stuff, just thrown in and piled up there in any shape. I found these two rifles.

Q. And you recognized those as two of those rifles?—A. Yes, sir; I recognized them as two of those rifles.

Q. But the other four—A. The other four—I don't know what ever became of them.

Q. You did not see or hear of them after the time when you executed this order of the quartermaster-sergeant?—A. No, sir.

Q. That you told us about?—A. No, sir; I never seen or heard of them any more. I don't know what became of them.

Q. Did you, while you were at Fort Brown, see in what way the Texas rangers were armed?—A. In what way they were armed?

Q. Yes; with what kind of gun, if any?—A. They were armed with the six-shooter, usually of a large caliber, say, about .45, I suppose, and what they called the Krag carbine.

Q. The Krag carbine. Do you know what the Krag carbine is?—A. I know what the army Krag carbine is, but that rifle is built different. It is set up different, and also it has a different magazine.

Q. Do you know whether or not this Krag-Jørgensen No. 30 caliber cartridge can be fired out of that carbine?—A. They don't fire any other caliber.

Q. That you call a Krag-Jørgensen carbine?—A. They fire that cartridge altogether.

Q. They fire that caliber altogether?—A. Yes, sir. Of course they didn't use this steel-jacketed bullet while around ordinarily. They have what they call the "soft nose;" but that is the same caliber as the other.

Q. They could fire out of those guns the steel-jacketed bullets just the same?—A. Yes, sir; or the soft nose. They are the same caliber.

Q. State whether or not you saw one of those Krag carbines in action at any time while you were down there.—A. Yes, sir; I have.

Q. And have shot with it?—A. Yes, sir; I have fired it.

Q. What kind of cartridges did you fire out of it?—A. The regular Krag-Jørgensen ammunition we had.

Q. The same ammunition you had for your rifle?—A. Yes, sir.

Senator FORAKER. That is all I care to ask the witness at present.

(At 12.45 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF CORPORAL WILLIAM RYAN—Continued.

Corpl. WILLIAM RYAN, a witness previously sworn, resumed the stand.

By Senator WARNER:

Q. You have been in the service how many years, did you say?—A. I am on my fourth enlistment. I am on my tenth year, sir.

Q. You have served with a number of regiments?—A. I have served in the Fourth and in the Seventh, and been in the general service, and in the Twenty-sixth Infantry, and in the Hospital Corps.

Q. Have you been artificer in any other company or regiment?—A. No, sir.

Q. The artificer is the assistant to the quartermaster-sergeant?—A. Yes, sir.

Q. He is a kind of man of all work?—A. Yes, sir; he does all the repair work about the quarters, and any company work that has to be done in a mechanical line.

Q. This surplus ammunition there, I understood you to say, was acquired in a good many ways?—A. Yes, sir.

Q. Now, what are the different ways in which the surplus ammunition is acquired?—A. Well, in case you accumulate any or make any savings during your target season, why, that is all surplus. For instance, you are allowed, for example, 60,000 or 75,000 rounds of ammunition for a target season. Well, you may save probably 10,000 or 15,000 or 20,000 rounds of it during that season. That is all surplus ammunition. Then, during a campaign like in the Philippine Islands, or during any other campaign—

Q. I will confine it now to time of peace.—A. Well, in time of peace you can turn in your empty shells, preserve your empty shells that you have fired, and I think they allow you one ball cartridge for every two empty shells that you return to the arsenal; something like that, and that is all surplus. You can use that, then, to good advantage, especially where you have new recruits, in allowing

them to fire extra ammunition above their regular allowance by the Government.

Q. How about the individual soldier in accumulating surplus ammunition?—A. Well, an individual soldier accumulates it in a great many different ways.

Q. In what ways?—A. In almost any company a man always carries from ten to twenty rounds of ammunition, and in case he loses any of it, as a rule it is never charged against him. He can just go and draw more; just go to the quartermaster's sergeant and say: "I am three, or four, or five rounds of ammunition short, and I would like to have it," and, as a rule, they will not charge it to you, provided they have surplus ammunition on hand.

Q. Now, accumulating surplus ammunition in the range practice, which you have spoken of, how is that done?—A. That is a very easy matter, because the ammunition, as a rule, is carried out by the men who are to fire, and is never charged to each man. No man is issued any special number of rounds or any special amount. As a rule, the ammunition is carried out there in bandoliers and opened on the range, and a man could get any amount he wanted and it would never be missed.

Q. Would it be easier to get the new Springfield ammunition issued in bandoliers than to get the old Krag ammunition?—A. Not a bit, sir.

Q. About the same?—A. About the same.

Q. So there would be nothing to prevent a soldier having that?—A. No, sir.

Q. Could he sell it?—A. I do not know of anybody ever selling any of it.

Q. Could he give it away if he wanted to?—A. Yes; they often do. I have been all over the United States, and I have found ammunition in all parts of the United States, especially in bar rooms and places of that kind, where men use. They go in and have, perhaps, three or four rounds of this ammunition and the barkeeper or somebody will say: "Let me have two or three of them just to keep on exhibition, for souvenirs." I have seen them setting on sideboards.

Q. A soldier who accumulates surplus ammunition, where does he keep that—in his locker?—A. He usually keeps it in his locker or barrack bag, or almost any other place that he sees fit.

Q. Are you giving what you understand to be the practice since you have been in the service with the different organizations that you have been in?—A. Yes, sir; that is the way I have found it ever since I have been in the service.

Q. The Twenty-sixth was a well-disciplined regiment, was it?—A. Yes, sir; we had one of the finest records there is in the Army, I believe, especially the Third Battalion. In fact, they had a special mention from the general inspector during his tour of 1905, especially K Company.

Q. You know, do you, that in the Army, when there is a surplus of ordnance stores—that is, in the quartermaster's department of the post—if that is to be condemned there is what is called a board of survey appointed, isn't there?—A. Well, it is only on a special occasion, as a rule. Any ammunition that becomes unserviceable has to be put before the general inspector, and it is condemned, but it is replaced by the Government.

Q. And what is done with the condemned ammunition?—A. It is usually destroyed. It should be destroyed.

Q. Destroyed how?—A. Well, in different ways. Sometimes it is chopped up. We had some ammunition condemned at Fort Brown, Tex., and that was thrown in the river, I believe. That is, I know it was ordered to be thrown in the river.

Q. What was the purpose of that?—A. So it could not get back into the Government service.

Q. So it could not get back into the Government service or be used by anyone else?—A. They did not say that. Their object is to see that it does not get back into the Government service.

Q. That was the order in the Twenty-sixth?—A. That was the order issued throughout the Army.

Q. But it was also in the Twenty-sixth, was it not?—A. Yes, sir.

Q. Who was your quartermaster-sergeant?—A. One Joseph Cheasman.

Q. How do you spell his name?—A. C-h-e-a-s-m-a-n.

Q. Where is he now?—A. I have no idea, sir.

Q. When did you last see him?—A. I last saw him, I believe, in August of last year.

Q. Where was he then?—A. He was in Fort Sam Houston, Tex.

Q. Connected with the Army?—A. No, sir; he was discharged at that time.

Q. Have you seen him since?—A. I have not, sir.

Q. Could you give the committee any information as to his whereabouts?—A. I could not, sir; I wish I could.

Q. Why?—A. Well, the company has a little grievance of our own against the man in question.

By Senator SCOTT:

Q. State in what way, or what about.—A. Well, he was the company librarian, and when he was discharged he went away with what funds belonged to the library, and we never heard of him since. We have tried to locate him, but we have never been able to do so.

By Senator FOSTER:

Q. How was he discharged?—A. He was honorably discharged at the expiration of his term of service.

Q. How much is he supposed to be short in his account with the library?—A. Twenty-odd dollars, I believe, sir. I am not positive.

Q. Now, Mr. Ryan, how many cartridges did you say you sold to this man H. M. Field?—A. A thousand rounds, to my knowledge.

Q. And he ran a kind of junk store, I understand from your description?—A. Part of it junk, and then he ran a first-class business besides.

Q. Outside of that?—A. Outside of it; yes, sir.

Q. In combination with his general store, he buys all of this stuff you have described?—A. He will buy anything, from a coon skin to an elephant.

Q. How did the quartermaster-sergeant tell you to put up these cartridges when they were sold?—A. He told me to take that box of original ammunition and put it in a kerosene box; that is, what kerosene is shipped to the Government in, a 10-gallon case. There

are 5 gallons in each can, and the cans set side by side in one of those cases.

By Senator SCOTT:

Q. In the box?—A. Yes, sir; in the box.

By Senator WARNER:

Q. These cartridges were in a box?—A. They were originally in a box; yes, sir.

Q. And he told you to take the cartridges and that box—A. And that box.

Q. And place them inside of this kerosene box?—A. Yes, sir.

Q. Why did you place them inside of the kerosene box?—A. By his orders, sir.

Q. Do you know why that was done?—A. I have no idea, sir.

Q. Do you say to this committee that you did not know that that was done to conceal the fact that they were cartridges?—A. Well, I do not know anything about it, sir.

Q. I ask you for your opinion as artificer.—A. In my opinion, I do not know, sir. I do not know whether I am bound to express my opinion on the subject. Of course, an opinion is a different thing. In a case of this kind I am not entitled to my opinion, that I can see.

By the CHAIRMAN:

Q. Well, you will answer all the questions that the Senator asks you. If you have no opinion, that is one thing.—A. I have not any opinion on the subject. I have no right to it.

By Senator WARNER:

Q. The box that these cartridges was in was a secure box?—A. They were in a secure box; yes, sir—sealed.

Q. Sealed?—A. Sealed with the Government seal; yes, sir.

Q. The Government seal was on the box containing these 1,000 cartridges?—A. Yes, sir.

Q. And the box was strong enough to be shipped anywhere over the country?—A. Yes, sir.

Q. And yet you took that box and put it in this kerosene box—A. Yes, sir.

Q. And you state to this committee that you have no opinion as to whether it was to conceal the fact that Government property was taken out or not?—A. No, sir; I have not any opinion on it. Of course, I have an opinion, but I do not care to express it.

Q. What is your opinion?—A. That is my opinion now.

Q. What is it?—A. Just what the Senator asked me. It is my opinion that he put that there to hide it in some way.

Q. To hide it from whom?—A. I do not know, sir.

Q. Not to hide it from the purchaser, Mr. Field?—A. No, sir; it was not to hide it from him.

Q. Was it not to hide it from the officers of the Government?—A. I do not see how it could have been. There were no officers there at the time. There was no chance of an officer seeing it.

Q. Was there no officer there in command?—A. The whole company was there. There were men there all the time, all through the day and at all times. Anybody could have seen it.

Q. But when it went into the kerosene box it looked as though it were an innocent matter going out?—A. Well, yes. I would naturally think myself if I had seen it, I would have thought it was a box of kerosene.

Q. And you helped in that deception?—A. I merely carried out my orders, sir. I was ordered to do it.

Q. Did you ask him why he was putting it into the kerosene box?—A. I had no authority to question his authority.

Q. I ask you did you ask him?—A. I did not, sir.

Q. And then you sold 2,000 cartridges to Mr. Creager?—A. I did not; no, sir.

Q. But you delivered them?—A. I did not, sir.

Q. Well, what was done?—A. I turned them over to a corporal in the company, by an order of the company commander to turn it over to this corporal.

Q. That is, the corporal in charge of the quarters?—A. Yes, sir.

Q. Did that corporal have any authority in the world over the ordnance stores?—A. At that time he had; yes, sir.

Q. Was the quartermaster-sergeant there?—A. The sergeant was not present then; no, sir.

Q. Was he present in the camp?—A. He was not present in the quarters; he was at Point Ysobel on the target range.

Q. Who was in command?—A. The corporal to whom I delivered the ammunition.

Q. Who was that?—A. Corpl. James A. Means, at the present time quartermaster-sergeant.

Q. How much was paid per thousand?—A. Ten dollars.

Q. You saw that paid?—A. I accepted the money myself, sir. It was paid to me.

Q. And you turned that money over?—A. To the quartermaster-sergeant; yes, sir.

Q. Do you know what became of it?—A. Well, of course I could not swear to it, or anything of the kind, but I am almost positive it was used for buying provisions for the Government—that is, extra vegetables and things of that kind that the Government does not furnish to the men.

Q. You would sell ordnance stores and buy extra vegetables?—A. I do not know, sir.

Q. As a soldier, did you not know that you had no right to sell ordnance stores?—A. I did not sell any, sir.

Q. Didn't you know that the quartermaster-sergeant had no right to sell ordnance stores?—A. I did not know anything about his authority, sir.

Q. Didn't you know generally—you were the artificer, holding this important position there—didn't you know generally that he had no right to sell Government property at all?—A. I know that it is against the regulations.

Q. When you spoke of selling stores and buying vegetables, that is when you have an extra allowance—that is, you do not use all of your sugar or your tea or your dried fruit—the surplus belongs to the company?—A. It belongs to the company; exactly.

Q. And that you can sell for vegetables?—A. That is it exactly.

Q. That is not from the ordnance, is it?—A. I do not know, sir. In fact, I have never had any occasion to investigate it. The supposition has always been with me that anything, any surplus stuff that belongs to the company, the company could do as they seen fit to do with it; and that is just the way I looked at this ammunition deal. If I had thought for a minute that he was trying to steal this ammunition or to sell it unbeknownst to his superiors, I would undoubtedly have reported it.

Q. But that never occurred to you?—A. Never occurred to me; no, sir.

Q. When he told you to put it in the kerosene box?—A. No, sir; it did not occur to me at all that way.

Q. And you had been in the service then how long?—A. About nine years—on my ninth year, sir.

Q. You had some surplus guns?—A. Yes, sir.

Q. To whom did those guns belong?—A. I would naturally suppose they belonged to the Government.

Q. They had the Government stamp on them, didn't they?—A. Yes, sir.

Q. Showing that they were manufactured by the Government?—A. Yes, sir.

Q. And they were in the possession of the Government?—A. Yes, sir.

Q. And yet you helped so to disfigure those guns as to prevent their identification, did you?—A. I did by an order.

Q. Did you believe that was right at the time?—A. Well, in my own mind I did not; no, sir.

Q. Why did you do it?—A. Because I was simply obeying an order.

By Senator SCOTT:

Q. An order of a superior officer?—A. Of a superior officer; yes, sir. I had no right to question my superior officer's authority.

Q. Who was your superior officer who ordered you to do that?—A. Sergeant Cheasman. I got an order from Sergeant Cheasman.

By Senator WARNER:

Q. Now, Corporal, looking at this gun I find the letters "U. S." and the words "Model 1898, Springfield Armory," on there.—A. Yes, sir.

Q. And then the number.—A. Yes, sir.

Q. Now, when he brought these guns to you, in order to disfigure them, you had to take that inscription off, didn't you?—A. No, sir; simply the number.

Q. Left the other there?—A. Yes, sir; the rest; all but the number was left there.

Q. Did you know anything about the history of those guns?—A. Only from hearsay, sir.

Q. Where were those guns when you selected them?—A. They were in the storeroom—the company storeroom.

Q. Well, the individual members of the company had their guns?—A. Not those guns; no, sir.

Q. But they had their own guns?—A. They had been issued a new

rifle entirely. All the Krag-Jörgensens at that time were in the storeroom.

Q. And you were ordered to pick out six of the best of them?—A. Yes, sir.

Q. And to disfigure them as you have stated?—A. To knock off that official number; yes, sir.

Q. And you did that?—A. Yes, sir.

Q. Then you were ordered to place them on the shelf, so they would not be seen by the inspector?—A. By any persons coming in there; yes, sir.

Q. And that you did?—A. Yes, sir.

Q. You concealed them in that way?—A. Yes, sir.

Q. Because if found, you learned from the quartermaster-sergeant that they would be turned in to the Government?—A. They might be ordered to be turned in.

Q. That is what you understood?—A. Yes, sir; that they might be ordered to be turned in.

Q. Four of these guns, you think, were disposed of?—A. No, sir; I do not think so. Well, I do not think anything about it. I have never thought of it one way or the other, sir; in fact, I do not know what became of them.

Q. But two of the guns you did find concealed among a lot of rubbish there?—A. Yes, sir; after we reached Fort Sam Houston.

Q. That was after you reached Fort Sam Houston?—A. Yes, sir.

Q. How long afterwards?—A. Well, during the next month—the month of July.

Q. But you left Fort Brown with your command on the 5th of July?—A. I did, sir.

Q. And did you say a month afterwards you found those two guns?—A. Yes, sir.

Q. Do you know whether those two guns were shipped from Fort Brown or not?—A. I do not know, sir.

Q. Did you ever ask the quartermaster-sergeant?—A. No, sir.

Q. You know nothing about that?—A. No, sir.

Q. When the quartermaster-sergeant came to you about these guns, what was it he asked of you?—A. On what occasion, sir?

Q. Well, just prior to the time that you removed the numbers from the guns and disfigured the guns?—A. Well, at that time he just simply came in and asked me where those six rifles were that we selected from the other rifles, and I showed them to him; they were sitting there in the rack. He took one of them down and asked me if I could destroy that number on there without injuring the gun, and I told him that I could; and he said, "Well, I wish you would do that and then put them away where they will be out of sight."

Q. That is just what he said?—A. Exactly, sir.

Q. Was that all the conversation?—A. That was all at that time.

Q. Did you have any conversation at any time with him as to why it was he wanted to remove the numbers from those guns?—A. No, sir; I had a general understanding that it was so that in case the rifles would ever be traced—that is the way I thought it to myself—to destroy those numbers in case the guns were ever sold or given away that they could not be traced back to that company. That was the way I always supposed, but of course I did not know.

By Senator FOSTER:

Q. Did you suppose that at the time you were taking these numbers off?—A. Well, that was my idea; I did not know.

By Senator WARNER:

Q. That was your idea then and now?—A. It was what I thought about it.

Q. That a record was kept of the exact numbers of the guns issued to a company?—A. Yes, sir.

Q. You knew that?—A. Yes, sir.

Q. And you knew that when a gun was issued to any member of a company, the number of the gun was kept, and therefore you say this was done for the reason that if this gun ever was traced into the hands of some person not entitled to it that they could not trace it back to your Company K?—A. That was my thought exactly, sir.

Q. And that was your thought at the time you were removing these numbers?—A. Yes, sir.

Q. And yet you did it?—A. I did it; yes, sir.

Q. Did you know anything about the history of those guns?—A. Only from hearsay, sir.

Q. Well, what was it?—A. Do you mean from the day they were accumulated?

Q. These six surplus guns.—A. Well, my understanding was that they were accumulated in the Philippine Islands. That is, I heard the old members of the company that soldiered there claim that they were taken up one night during a casco wreck; that is, there were several cascoes wrecked, several sunk, and that the soldiers rescued everything they could from those cascoes and set it ashore, and during their picking up of property, etc., Company K in some way got hold of two cases of extra guns, and that they carried them with them until they got back to the United States.

By Senator FOSTER:

Q. How many guns in a case?—A. There are 20 guns to a case, sir. I have heard lots of the old men talking about how they rescued these guns and carried them into the company and kept them there, along with a lot of other stuff.

By Senator WARNER:

Q. And these 6 guns were the remnant of those guns, as you understand it?—A. A part of those two cases.

Q. None of those guns could have possibly had any number upon it that would correspond with the number of any gun that was issued to K Company?—A. No, sir: I should not think so.

Q. They could not have been turned in for Company K guns, could they?—A. Well, I do not know about that. I do not know how they could have been; but, as I understand it, these guns that were captured there, or picked up that night, were reported lost to the Government.

Q. They were supposed to have been lost?—A. They are supposed to be in the Pasig River right now.

Q. That is, you mean the two cases?—Yes, sir.

Q. Now, when your guns were turned in you could not have turned in any of the guns in those two cases for the guns of Company K that had been issued to it, because their numbers would not corre-

spond?—A. They did do it, that is certain, because I know these rifles that the numbers were knocked off of they were issued to us in Brownsville during the target season of 1905. They were issued to us now out of the ordnance stores there at Fort Brown. There were 20 guns issued to each company for the target season on account of so many of the old guns that had been in the Philippines having been fired so much that they were practically destroyed. You could take one of these cartridges and drop all of the small part of the shell below that right in the muzzle and work them around; they had burned out so bad; they were so loose. And they gave each company in the post at that time twenty of those new rifles to do the firing in the target season of 1905, and the rifles that the numbers were knocked off were a part of those rifles.

Q. Part of those new rifles issued to your company at that time?—

A. Yes, sir; out of the arsenal, and there is no doubt that they were turned in with the rifles that the company was actually accountable for, at the time the new Springfield was issued.

Q. Did you ever see any of those alleged 40 guns that were rescued, the two cases?—A. I know these 6—no, I can not say that I did.

Senator FOSTER. These 6?

By Senator WARNER:

Q. These 6 that you spoke of were 6 of the 20 new guns that were issued to you in 1905?—A. Yes, sir.

Q. That is what I wanted to know. That you have stated?—A. Yes, sir.

Q. You have stated that plainly several times?—A. Yes, sir.

Q. And you have no remembrance of ever seeing any of the alleged guns that were found out in the Philippines?—A. They were in use in the company all the time. I might have seen them, but at the same time did not know it.

Q. Do you know of what make they were—what year?—A. I have no idea in the world. They are practically all about the same model.

Q. But you knew these six guns belonged to the Government—there is no question about that, is there?—A. I did not know who they belonged to, sir. I knew they were the Government make, but that is all. I did not know who they belonged to.

By Senator FOSTER:

Q. You knew they had been issued to the company?—A. They were in the possession of the company; I knew that.

Q. You knew they had been issued to the company?—A. I could not even swear to that. They might have been issued to the company, and there might have been others issued to the company. I do not know: I could not swear to it. I knew they were there, but how they got there I did not know.

By Senator WARNER:

Q. When you left, did you leave any cartridges at Fort Brown in your company?—A. Of the new pattern?

Q. Yes; of the new pattern.—A. Yes; we left some there by accident.

Q. What kind of an accident?—A. Well, before we were to leave there, a day or so, I don't remember exactly, everything was in such

a rush the quartermaster-sergeant came to me and told me, "We are going to ship those empty shell and bandoliers and clips, etc., that are out here in the back yard," and he said, "Go out there and get out eight or ten of those bandoliers of ammunition, because we will have to issue some ammunition to the company." I said, "How many are you going to give them?" He said, "I don't know whether it will be 10 or 20 rounds." I said, "All right." I went down there. I did not count the bandoliers exactly. I pulled them out of the box one after the other until I got about as many as I could carry on my arm, closed the box up again, and carried the bandoliers inside of the storeroom, and either that day or the next day, or probably that night, I don't now remember, the ammunition was issued to the men, and I know after the ammunition was issued we had two bandoliers and about a half of another left, and I hung those up on a nail. I told the sergeant, "I will hang these up here and we will get them in the morning."

Q. Two bandoliers and a half?—A. About two bandoliers and a half; yes, sir; 60 rounds in each bandolier. I said, "I will hand these up and we will not forget them; we will put them in something or other and take them along, either with the cooking utensils or in some way." We had to take them loose, because the ammunition had to be loaded before that, so we could not place them back in the boxes. The morning we left I was called very suddenly to go with the wagon, and it was dark that morning when we left the post, and I took a lantern and went back and looked all around the floor and over the beds and chairs and things that were in there to see if I had left anything, but I did not look high enough to see these bandoliers, and I forgot them; but on the train I happened to think about the bandoliers and I spoke to the sergeant about it.

Q. This same Sergeant Cheasman?—A. Yes, sir; and we had left a detachment back there behind, four or five men of the company, and I told him, "We had better send a telegram or a letter back there and tell these men to look out for that ammunition and take it up and bring it to Fort Sam Houston with them when they come." "Oh," he said, "never mind it; let it go; we have got plenty of ammunition without that; just let it go. I guess they will take care of it anyway." "Well," I said, "that is not the thing; there is quite a little bit of it, and we may need it." He said, "We don't need it; we have got plenty of it; let it go." And I said "Very well."

Q. That was this new Springfield ammunition?—A. Yes, sir; the new Springfield.

Q. Two bandoliers and a half?—A. Two bandoliers and about a half; yes, sir. I judge there was about half a bandolier besides.

Q. So there would be about 150 cartridges?—A. Something like that.

Q. And he said that was of no consequence?—A. Yes, sir.

Q. To let it go?—A. That it was no matter, let it go.

Q. You superintended the shipping of the stuff out of the storeroom?—A. No, sir. I did not; the quartermaster's sergeant and company clerk and those people looked after that.

Q. Why was it you were in looking around?—A. I slept in there. It was my bedroom.

Q. You said you were looking to see if anything was left?—A. That is natural for a man when he is leaving a room. I did not know

what I had left. I might have left my rifle in there or any personal effects. I wanted to look around to see if I had left anything lying around there.

Q. Did you look up on that shelf to see if those guns were up there?—A. Everything was packed and gone.

Q. You looked up there then?—A. No, sir; because that store-room was locked up. The quartermaster of the post had locked the room and had the key, carried the key. The post quartermaster at that time had the place all locked up, and we were not admitted to the room at all.

Q. When did the post quartermaster get the key to that room?—A. It was turned over, as well as I remember, the evening before we left.

Q. But up to that time the company quartermaster-sergeant had the key?—A. Up to that time, yes, sir, we had access to the room.

Q. Did you go in to look to see about those six new guns?—A. No, sir; I did not look for anything; I did not go in there, for everything was packed. The sergeant and I looked all around through the shelving to see if there was anything at all there left that belonged to the company, and there was nothing left.

Q. What experience, if any, had you had in removing the numbers from guns?—A. Never had had any, sir.

Q. Hadn't you ever done it before?—A. No, sir; but I am a mechanic and understand tools and such as that.

Q. Have you ever done it since?—A. I never have.

Q. Have you ever sold cartridges since, or seen them sold?—A. I have never sold any.

Q. Have you seen them sold since?—A. No; never.

Q. Or ever before?—A. Never before, to my knowledge.

Q. This was a very unusual proceeding, then?—A. Well, it was to me; yes, sir.

Q. I was asking you about cartridges being left there, and you were speaking about those two and a half bandoliers. Were there any other cartridges left there?—A. Not that I know of, sir.

Q. Did you have any Krag-Jørgensen cartridges?—A. We had some few left that we shipped to Fort Sam Houston.

Q. Who loaded those?—A. They were loaded by a fatigue party.

Q. You saw that done?—A. No, sir; I did not.

Q. How do you know they were loaded, then?—A. The quartermaster sent wagons there to each company. The only thing we had to do with the stuff was to pack it, mark it, and weigh it.

Q. Had you packed these surplus cartridges?—A. No, sir; they were already packed.

Q. They were already packed and marked, were they?—A. No, sir; we marked them after we took them and carried them outside, on the rear porch. They were marked out there.

Q. Were they in cartridge cases?—A. Yes, sir.

Q. In the same kind of cases as they came from the arsenal?—A. Yes, sir; the same ones.

Q. And you took those surplus Krag cartridges out there in these boxes and marked them?—A. Yes, sir; scraped off the old address and marked them to Fort Sam Houston, Tex.

Q. You saw that done?—A. Yes, sir.

Q. How many boxes were there of those surplus cartridges?—A. Well, altogether, including blanks and such as that, there were some seven or eight cases all told, principally blanks.

Q. When you speak of blanks, what do you mean?—A. What they call blank cartridges, which are used for sham battles and things like that. The cartridge is loaded with a paper wad instead of a shell. It is on the same principle, only loaded with a light charge of powder and a white paper imitation of a shell.

Q. Was your company pretty well policed?—A. Yes, sir.

Q. What day of the week was it you left Fort Brown?—A. I don't remember what day of the week it was, sir; but we left there on the morning of the 5th of July. I was very busy, so busy the last five or six days that I did not even have time to keep track of the day of the week.

Q. Did you see any cartridges there—you did not see those that you had left, the two and a half bandoliers?—A. No, sir; but all of our ammunition when we brought it from the target range—we had something like 25 or 30 boxes of empty bandoliers and empty shells and clips and loaded ammunition that was left out there in the back yard, in the rear part of the quarters, for three days and nights at least, sitting out there in the back yard day and night.

Q. I have not asked you a word about that.—A. Oh, well, I thought that was what you asked me about, if I had seen any ammunition outside there.

Q. When these bandoliers and shells were put up were they fastened in cases?—A. They were not fastened; they were just put up with two or three screws in the head of the box—just enough to hold them.

Q. That was done, was it not?—A. Yes, sir.

Q. To all the ammunition?—A. Yes, sir.

Q. How were the bandoliers packed in the boxes?—A. Stuffed in the boxes and packed in the same way.

Q. And the lid was screwed on?—A. The end goes right on the box, and then they have little brass thumbscrews which you screw on.

Q. And those were screwed on in that way?—A. Yes, sir.

Q. And the bandoliers were just put in the boxes?—A. Yes, sir; shoved in the boxes.

Q. Do you mean empty bandoliers?—A. Yes, sir.

Q. Why did you put empty bandoliers in the boxes?—A. I did not put them in, sir.

Q. Why were they put in?—A. To be reshipped to the arsenal.

Q. That was the rule, was it not?—A. Yes, sir.

Q. And that was the order?—A. It was not exactly the order. It was simply up to the company whether they should do that or not. If the company do that, they are so much in: they are allowed so much back.

Q. On those bandoliers?—A. On those bandoliers.

Q. And that was done with the bandoliers of your company?—A. Partly; yes, sir.

Q. You say partly?—A. The majority of them were packed, the majority of ours.

Q. When you say the majority, didn't you take all the bandoliers

that you could see in that way?—A. Before we left the target range we did; yes, sir.

Q. And before you left the barracks of Company K, on the 5th of July?—A. No, sir; there was any amount of them scattered around there. We did not bother with them.

Q. Just left them there?—A. Yes, sir; because the original cases were all packed in there and counted, and we did not care to monkey with them—did not have time enough.

Q. Did you see any cartridges or find any empty bandoliers after you left the range?—A. There were lots of them there in the wagon. They picked them up around the range when they were there, policing around the range—picked them up after we unloaded the wagon.

Q. When did you return from the range?—A. The company got in there, as well as I remember, along about—I believe it was the night of the 1st of July. I am not positive, but it was right along there somewhere.

Q. Then, if you got in there on the 1st you were there the 2d, 3d, 4th, and 5th of July?—A. Yes, sir; but we had to get all that stuff away from there before we left.

Q. Wait a moment. And those bandoliers were unloaded when you came back?—A. Yes, sir.

Q. And thrown all over the floor?—A. No, sir; they were piled out in the back yard, with all the rest of the camping material we had.

Q. And were any of them left thrown around in the barracks?—A. There were some lying on the back porch of the quarters.

Q. I asked you if there were any thrown around on the floors in the barracks. How could they be on the porches if you had piled them up with the rubbish in the yard?—A. I don't know, sir, how they got there. They were kicked around there. There was men using them to shine shoes, and everything else, around there.

Q. Yes?—A. The children were playing with them. They were scattered around there, and they were playing with them. They were scattered all around there. Nobody took any particular notice of them.

Q. Did you see any clips there, too?—A. Yes, sir; any amount of clips there.

Q. Scattered around, too?—A. All our clips that were broken were thrown out. There are two little hooks to hold the cartridges in, and if one of those hooks was broken off we would throw that clip away.

Q. But you kept the serviceable clips?—A. Yes, sir.

Q. That was the order, and the rule, too?—A. Yes, sir.

Q. Did you see any Springfield cartridges lying around there?—A. Springfield cartridges? I didn't see any cartridges; no, sir.

Q. You are quite clear about that?—A. No, sir.

Q. And you were in and looked around the quartermaster's room?—A. One room; yes, sir; I was in there, and it is a very small place. It is only about 12 by 14.

Q. It was very easily to be seen what was in it?—A. Yes, sir.

Q. If there had been any ammunition scattered around in there you could have seen it very easily?—A. Yes, sir.

Q. And there was none?—A. I didn't see any.

Q. Who was it you first told about having disfigured these guns?—
A. Who was the first man I told about it?

Q. That is correct, sir.—A. I am not positive, but I think Colonel Glenn was the first man I told about it.

Q. Colonel Glenn, of what regiment?—A. I don't know, sir; he is the attorney for Major Penrose.

Q. Did you testify to that before the court-martial?—A. I didn't testify at all before the court-martial, sir.

Q. When was it you told this to Colonel Glenn?—A. It was something like a week before I was ordered up here, sir.

Q. When was that?—A. I got in here last Wednesday night. It was along during, I think, about the second week of this month.

Q. That was the first time you had ever mentioned it to anyone?—
A. Yes, sir.

Q. How did you come to mention it to Colonel Glenn at that time?—A. Well, I was questioned on the same line that I am being questioned on here. It was the first time I had ever given the thing a thought, the first time I ever had occasion even to think of the rifles.

Q. Such a small matter as removing those marks from the rifles, the marks of identification, had never given you a thought?—A. No, sir; I had never thought of it. He questioned me on this rifle matter, and I told him what I knew just the same as I am telling the committee.

Q. Where were you stationed at this time when you told Colonel Glenn about this?—A. At Fort Sam Houston.

Q. And where was it you were questioned?—A. In his quarters.

Q. At what place?—A. No. 11, I believe they call it.

Q. At what town is what I want to get at.—A. At Fort Sam Houston.

By Senator FORAKER:

Q. No. 11 what?—A. Quarters No. 11, I believe they call it.

By Senator WARNER:

Q. Did you also tell Colonel Glenn about putting these cartridges up in a kerosene box?—A. Yes, sir.

Q. But he did not call you before the court-martial?—A. He didn't call me; but from what I understand, he wanted to call me, but I was not there. In fact, when I got here I was notified that there was a message for me to come right back, but it seemed that they got along without my evidence and closed the case.

Q. Do you know how it was Colonel Glenn asked you about disfiguring the guns?—A. No, sir.

Q. You never had mentioned it to anyone?—A. Never in the world, sir.

Q. You thought that was right at the time, did you?—A. I thought it was right to obey the order that I received, sir, merely.

Q. If your quartermaster-sergeant had told you to take one of those guns down to a junk shop in town there and sell it and bring him back the money, you would have obeyed that order?—A. Yes, sir.

Q. Believing that it was right?—A. I don't know. That was an opinion of mine. I had no right to question his authority on those

things. I suppose it would have been right or he would not have ordered it.

Senator WARNER. I think that is all that I want to ask him.

By the CHAIRMAN. Just a question or two that I want to ask this witness. I think you said you packed the Krag-Jørgensens that were turned back to the Government?

A. I did, sir.

Q. Did you take a list of the numbers, or did anyone else take a list with you?—A. No, sir; we didn't take a list of the numbers at all. Yes; I believe we did. As well as I remember we did, sir.

Q. Just tell me about the identification that was attempted, if any, before the guns went away; who checked them up and who took a list, if anybody?—A. Since I begin to think of it, sir, I believe I did take a list of all the numbers of the guns that were packed in each case, and also their—

Q. And you packed all the guns, or rather you packed as many guns as you had men in your company, did you?—A. We packed all that we were accountable for, sir.

Q. When you say all that you were accountable for I think you will qualify that. You were accountable for six—A. No, sir.

Q. But you changed the numbers and put them back on the shelf?—A. No, sir; we were not accountable for them.

Q. You were accountable for them because they were the identical ones issued to you, and you substituted others in their places?—A. Well; yes, sir.

Q. In other words, you took out six guns that were among those charged to you and others were put in their places?—A. Yes, sir.

Q. And those six put in their places, as I understand you to say, were those that you understood had come from the Philippines?—A. Yes, sir.

Q. That took the place of those?—A. Yes, sir.

Q. The substituted guns, as you understand it, were guns that had come in from the Philippines?—A. Yes, sir.

Q. Then those were not charged out to the men by the numbers?—A. Yes, sir. Each man had his rifle.

Q. Of the new rifles?—A. Each of the men had his rifle.

Q. But you have said that you were not accountable for these extra guns; hence, they would not be charged out to the men by their numbers—that is, the six old ones that were substituted?—A. Each man had his gun and was charged with it. My own rifle went into that bunch.

Q. That is, the ones you had in the first place?—A. Yes, sir. And Private Jebb, that was a witness before this committee, his gun went in, too.

By Senator FOSTER:

Q. You say that Jebb assisted you in selecting those six guns?—A. Yes, sir; those six rifles.

Q. And of those six rifles your rifle was one and his was another?—A. Yes, sir; and if I am not mistaken, Jebb heard this order from the quartermaster-sergeant to set these six guns out. I am not positive, but it seems to me he was in the storeroom at the time, because he was left back there.

By the CHAIRMAN:

Q. Now, you had your guns, or, rather, your guns that had been issued to the men, the Krag-Jørgensens?—A. Yes, sir.

Q. There was one apiece charged up to you, by the numbers?—A. Yes, sir.

Q. And out of those you selected six guns, which you did not turn back?—A. Yes, sir.

Q. That is right, is it?—A. Yes, sir.

Q. Then you destroyed the numbers on those six guns?—A. Yes, sir.

Q. And in place of those you put six guns?—A. Substituted six guns.

Q. That came from the Philippines?—A. Yes, sir.

Q. Now, how did you account for those numbers when you made up that list?—A. We didn't account for them; we were simply accountable for the exact number of guns.

Q. Did you not account for those you turned in yourselves?—A. I am not positive, but I think we did; the list was made and turned in to the company clerk, and the bills were made out for shipment and the invoices, and so forth, and they were turned over for shipment.

Q. What did you do—did you give them the numbers that were on those substitute guns, or did you give them the numbers that were on the new guns, that you destroyed?—A. We gave in the numbers on the actual guns, actually affected.

Q. Actually affected?—A. Yes, sir.

Q. So that that list would have shown six guns with different numbers on them from those charged to your company?—A. Yes, sir; but as I understand, the Government when it issues rifles doesn't charge us with rifles numbers so-and-so, but so many rifles are invoiced to a company, and the only reason that a company, or the quartermaster-sergeant, practices this number business, this keeping of numbers, is in case a man should lose a gun.

Q. That is, it is your idea that when the Government issues those guns they do not keep track of them as to the men individually—they do not keep track of the men and the numbers of the guns?—A. The Government does not; no, sir. The company is just like any other firm; they will apply for so many rifles, and the guns are invoiced to them, so many rifles, say 30 or 40 or 65 rifles.

Q. When you receive your gun, it is your idea, then, you are not charged with it as to number? It is not charged to you by number?—A. As to number, I don't think so.

Q. It is your idea that it was not kept track of by number?—A. I don't think so.

Q. You would not like to state positively that that is the rule in the Army, but you think that is the rule, that the numbers are not kept as against the men?—A. I know that the numbers are kept against the men in the company, but I don't think so outside of the company.

Senator SCOTT. He has just stated that.

By the CHAIRMAN :

Q. Even if that is the case, you had charged to your company six guns by number which you did not turn back?—A. No, sir; they were not charged by number.

Q. How were they charged?—A. We were charged with so many rifles. For instance, say, we were charged with 65 rifles and we had 70.

Q. Very well.—A. All we were accountable to the Government for was 65 rifles. We packed those 65 rifles and sent them back to the Government, and that relieved us of responsibility to the Government for the rifles and at the same time we had a surplus in our possession.

Q. You had 65 rifles issued to you?—A. Yes, sir.

Q. And then you had these guns extra, back in the storeroom?—A. Yes, sir.

Q. Now, those 65 guns had their numbers, of course, every one of them. Was there any track kept of these numbers on the records of your company that would show what men they were issued to by number?—A. There was at that time; yes, sir. But they have all been destroyed since.

Q. They were charged to you by number, so-and-so?—A. Yes, sir. For instance, if I had rifle No. 2525, that is the way it would be. That would be charged to me.

Q. When you turned back your gun did you turn back that number?—A. We were bound to.

Q. Did you turn that number gun back?—A. Yes, sir.

Q. Did the gun that you turned back bear that number?—A. I don't understand.

Q. Did the gun that you turned back bear the number of the gun issued to you?—A. Yes, sir.

Q. But you have just said that the gun issued to you originally was one of the six that you took out and did not return?—A. We turned them back to the storeroom; I didn't mean turned them back to the arsenal.

Q. No; I am getting at what you turned back to the arsenal.—A. My rifle didn't go to the arsenal.

Q. But in the meantime it had been charged to you by number in the company?—A. Yes, sir.

Q. Then how do you suppose they ever disposed of it?—A. As soon as I told the quartermaster-sergeant "Here is my rifle, sergeant," he would look on this list and compare it to his list, and if it was all right then he would throw it in the storeroom, and they would just pile them up there like a lot of rails; and that relieved me.

Q. In other words, if you turned in a gun and said it was No. 44 instead of 106, and the sergeant checked it as No. 44, that would relieve you?—A. Yes, sir.

Senator FORAKER. Excuse me just one moment, Mr. Chairman. I think it is only fair to the witness—

The CHAIRMAN. I propose to get it down in my own way to the witness.

Senator FORAKER. Allow me, in justice to myself. The witness said that he was charged with a gun and he took that gun and turned it in and the quartermaster-sergeant checked it up in accordance with its number.

Senator FRAZIER. But after that the quartermaster-sergeant told him to select six guns to be retained.

The WITNESS. Out of the whole lot; out of the whole amount; out of the company's amount. Out of the whole amount we selected six.

By the CHAIRMAN:

Q. That is after you had all turned them in?—A. Everybody in the company; after they had all turned them in.

Q. As to this list of numbers, you don't know how that list of guns was made up. That is, on the invoice they sent back to the arsenal, you do not know whether any list of numbers accompanied it?—A. No, sir; I do not. I had nothing to do with the making out of the shipping invoices.

Q. But you personally did not have anything to do with the making of a list of the numbers or assisting in that?—A. As well as I remember we took a list of the numbers and turned it over to them, but what was done with it I don't know.

Q. That is, those lists went in the boxes?—A. Yes, sir; as well as I remember they went in the boxes. Private Jebb, who is here now, as well as I remember, put the rifles in and gave me the numbers. Yes; I am positive of it; I took the numbers myself. And we numbered the cases 1, 2, 3, 4, 5, and 6, and so forth, and I had a list of all the numbers in case No. 1, and the numbers of all the rifles in case No. 2, and so forth, and I turned them in to the company clerk.

Q. Yes.—A. And on their shipping invoices they had so many of this and so many of that, because there was other things went in there besides rifles, in the way of bayonets—

Q. That would be a very proper way.—A. (Continuing.)—and supplies and so on. But whether they were shipped on to the Ordnance Department or not that way I couldn't say.

Q. That is the way I supposed you would do; but what I wanted to get at was whether that was the case, and if that was the case, whether that list of numbers in the box corresponded with the list of numbers on the guns when they were turned over to you?—A. Yes, sir.

Q. Or whether you took the numbers off of those six guns as they were, and then took the numbers on these six old guns that you substituted?—A. I never took those numbers at all. We took the numbers of the guns put in there and shipped—that were shipped to the men—and the others were thrown out entirely until the others were out of our hands.

Q. And that included the six guns that were brought from the Philippines?—A. That included six of the best guns in the company.

Q. But the list put in the box, that included the numbers of the six brought from the Philippines? You picked out six—A. I picked out six of the best rifles.

Q. And in place of those you put six of these old guns?—A. I presume, like most any other man would, in taking 6 rifles from, say, 75, when just a year before we had been issued 20 new rifles—any man, I would naturally assume, would pitch on these last new rifles that we were going to keep. It isn't very likely that we would pick out old guns that had been in the Philippine service. That is the reason they were picked out from the new rifles received in the com-

pany; and we sent back the rifles that we had brought from the Philippine Islands.

Q. I may be a little dull, but what I wanted to get at was whether the invoices of the guns contained the same numbers of the guns that went back?—A. Yes, sir; they did.

Q. And if so, if there were not six of the guns in there that were brought back from the Philippines that you had acquired?—A. I don't exactly understand what the Senator means, but if you mean did we send bogus numbers, did we make manufactured numbers—

Q. No, I mean this. I want to get straightened out. You had extra guns in your company, and as I understand you they came from the Philippines—a couple of cases in the first place, but you had six at the time you are speaking of?—A. At the time we packed those guns for shipment.

Q. Now what became of those guns?—A. I don't know where they are.

Q. The old ones?—A. I know where two of them are.

Q. You misunderstand me. The six guns, two of which you know about and the other four you do not know about were the new guns you had taken out in place of these and that you had destroyed the numbers on. Now, what I want to know is whether you put six guns in their place or not?—A. Why, there is bound to have been six guns in their place.

Q. That is what I say. Now, those guns would have numbers different from the ones you destroyed?—A. Oh, yes; every gun has a different number.

Q. When you made up the list there would be six guns, if you took the numbers from the guns, that were different numbers from those six that you had destroyed the numbers on?—A. Oh, yes, sir; they would be different from any other numbers in any shape or form.

Q. Now, when you made up that list or invoice, you wrote what was on the gun itself right down there?—A. Exactly, sir; and nothing more, sir.

Q. So that if they had compared that list, the list would have corresponded with the numbers on the guns?—A. That is what I was sent there for, yes, sir.

Q. And if that list had been compared with the original list of the guns sent to you there would have been six guns different, would there not?—A. It would never be no difference to us, because as I said before, the Government doesn't keep track of the numbers of these rifles that they send to each individual organization. They simply send you so many rifles, and they don't know whether it is No. 1 or No. 10001.

Q. You assume that they do not know the numbers; but if they knew the numbers, checked the numbers, my statement would be correct; there would be six numbers sent back different from the numbers sent to you, would there not?—A. Oh, no, sir; no, sir. They have no way in the world. They don't know anything about what we kept back there. All they know is what they received. They don't know anything about the rifles we kept back there—don't know anything about it.

Q. They do not know what numbers they sent to you?—A. They have no idea in the world: they don't care; no.

Q. You are sure of that, now, that where a troop of cavalry or a company of infantry are furnished with 60 or 70 guns the Government does not know anything about the numbers on them?—A. The arsenal, as a rule—the arsenal sometimes—I have found cases where they issued new guns like these Springfields. Now, when these Springfields came to us they were turned out there and shipped in, and we had a list of the numbers that were on each and every one of those rifles; but after that they was never on our ordnance returns or anything, and the numbers never are mentioned.

Q. When you were first issued the Krag-Jörgensens they were new, and what is your idea about the numbers of those?—A. No, sir; they were turned over to us loose; they were not new. They were rifles turned in by the Fourth Infantry at the time they went to the islands, in 1903. The rifles they had were surplus rifles that they had turned in; didn't have any use for. It was when the companies were cut down to 65 men, and all these rifles that they had over that amount were turned in. They were old rifles, but at the same time they were in better shape than those that came from the islands. They were not a new rifle; you couldn't call them a new rifle.

Senator WARNER. Allow me to ask one question.

The CHAIRMAN. I have finished.

By Senator WARNER:

Q. I understand that in answer to a question of the chairman you said they were just issued 65 guns to a company, and the Government has no trace of the numbers—just 65 guns?—A. Sixty-five guns.

Q. Then you stated in your testimony, in answer to questions, to me, that your purpose in removing this number from the gun was so that the Government could not trace that gun back to your company?—A. That was just my idea. You asked me my opinion.

Senator WARREN. That is it. That is all.

By Senator FOSTER:

Q. I am a little cloudy about some of your statement about the gun that you had. When you received this Krag gun you were charged up by number, were you not?—A. Yes, sir; rifle number whatever it was.

Q. It was charged up to you?—A. Yes, sir.

Q. What was the number on that rifle?—A. I don't remember what it was.

Q. And each man is charged up by number with the rifle he receives?—A. Yes, sir.

Q. And each man is accountable for that rifle, is he not?—A. Yes, sir; he is accountable to the Government.

Q. When you go out for inspection, each man has his number, and he knows his rifle?—A. Yes, sir.

Q. Now, you kept your rifle, the same rifle, all the time you were at Fort Brown, did you not—the same number?—A. Not all the time, sir. I got one of those twenty new rifles that was issued.

Q. Twenty new Springfields?—A. No, sir; one of those twenty old Krags that we were issued before the target season of 1905.

Q. You were charged up with that number, then?—A. My old number in that case was scratched and the new number put on.

Q. The new number?—A. Yes, sir.

Q. When this quartermaster-sergeant told you to select six of the best guns belonging to your company, you did select six of the best, and among the six was your gun, was it?—A. Yes, sir; I picked out as one of them my own rifle.

Q. And then you destroyed the mark or the number on your own rifle?—A. Yes, sir.

Q. Did you not know that that was a fraud upon the Government when you did that?—A. Well, I can say this, Senator, that even if I had known so, I had no right to question it. I was simply obeying orders.

Q. Yes. I say you received a certain gun from the Government, for which you were responsible and for which you were held liable for its proper care and its return, and then when this quartermaster-sergeant told you to select six guns, six of the best guns, you selected your own gun among those and destroyed the number by which it could be identified?—A. Yes, sir.

Q. And did you not know at that time that this act of yours was wrong?—A. Well, of course I thought a great deal about it, but at the same time I couldn't question it. I couldn't question the sergeant's authority.

By Senator SCOTT:

Q. You were taught to obey the orders of your superiors?—A. Yes, sir; the orders of my superiors. If my company commander told me to jump in the river out here I would jump in. Of course I don't say I wouldn't swim out.

By Senator FOSTER:

Q. That is very pretty, in theory; but if your commanding officer should tell you to commit a fraud and a wrong, would you do it?—A. I would, sir, and report the fact, if I knew it to be.

Q. Wait a moment. And you would afterwards report the fact to the commanding officer of your company or regiment?—A. If I was ordered to do anything of the kind and knew it to be a fraud, I would obey the order and then report it.

Q. That is what I was coming at. Did you ever make any report of the fact that you defaced the number upon your gun to any officer above the quartermaster-sergeant?—A. No, sir; I never did.

Q. Did you not feel it your duty as a soldier to have reported such a fact to your superior officer, or to some officer above?—A. No, sir; I had no reason to even dream of such a thing, when he told me that he had authority to do it.

Q. Whom did he tell you he had authority from?—A. I didn't ask him, but I assumed that he had it from the company commander. He was under him.

Q. Who aided you, if anyone, in destroying the numbers of the guns?—A. I don't remember, sir, whether there was anyone there or not. It seems to me, though, like the quartermaster-sergeant himself.

Q. What is that?—A. It seems to me that the quartermaster-sergeant himself helped.

Q. What kind of an instrument did you use in destroying the numbers?—A. We used what is known as a center punch.

Q. How long did it take you to destroy those numbers on six guns?—A. About four minutes. It is the same as a calking tool.

Q. Was this before or after you had sold those thousand cartridges?—A. Let me see——

Senator SCOTT. I do not think that you ought to put it that way, Senator, that he sold the cartridges.

Senator FOSTER. He delivered the cartridges and he got the money for them.

Senator SCOTT. But he sold them at the order of another man, who was his superior. He has stated that three or four times.

Senator FOSTER. He delivered them and got the money for them and then turned the money over to some one else, that is true.

Senator SCOTT. He has stated that two or three times.

By Senator FOSTER:

Q. Now, when you delivered those 1,000 cartridges and received the pay for them, was this before or after you had taken the numbers off of those guns?—A. To the best of my recollection it was afterwards.

By Senator WARNER:

Q. Right there, Senator Foster, if you will allow me to ask one question. This was in the month of June, 1906?—A. Practically all during that month, sir.

By Senator FOSTER:

Q. When these 200 cartridges were prepared by you under these instructions from the quartermaster-sergeant, was that before or after the 1,000 cartridges were disposed of?—A. To the best of my recollection, it was afterwards. I am almost positive it was afterwards.

Q. Then after the numbers on the guns were defaced and destroyed, the same quartermaster-sergeant instructed you to put 1,000 cartridges in a kerosene box and deliver them to the party who would call for them?—A. Yes, sir.

Q. And you did it and never reported that fact to any officer?—A. No, sir; because he told me that he had a written order from the company commander, and that is what I was going by. I asked him——

Q. Did you ask to see the written order?—A. Yes, sir.

Q. You say you asked to see it?—A. Yes, sir.

Q. Did you see it?—A. I don't remember whether I did or not.

Q. Who was the commanding officer of your company at that time?—A. Lieut. Allen Parker.

Q. I believe you mentioned that. When Colonel Glenn called you before him, where was he at that time; in his quarters?—A. At Fort Sam Houston; yes, sir.

Q. What was the object of calling you before him?—A. I suppose the same object that this committee has, to find out what became of those guns and the ammunition, and one thing and another. I don't know exactly. That is merely a supposition; I don't know.

Q. You had never mentioned it to a living soul up to that time?—A. No, sir; not to my knowledge.

Q. Well, if you did we would like you to refresh your memory about it.—A. No, sir; I had never thought a thing about the rifles. To tell the truth, it was a surprise when he even mentioned it to me.

Q. When you arrived at Fort Sam Houston you only found two

of the six guns that you have mentioned?—A. In our baggage, yes, sir.

Q. Did that excite any suspicion in your mind that the other four had been disposed of?—A. No, sir.

Q. Did you ever mention that fact to any officer?—A. No, sir.

Q. Did you feel called upon, then, to notify any of the officers of your command that such was the fact?—A. No, sir; because we wasn't accountable for the rifles. If we had been accountable for them, or lost one, I would have reported it.

Q. Did you not feel that as a soldier you were accountable for a rifle that you received from this Government?—A. I always feel accountable for it. I know I am accountable for it.

Q. Do you feel as a soldier that you can take one rifle from the Government and substitute another for it?—A. That doesn't matter. I don't see where there would be any difference as long as you turned in a rifle for a rifle. They are all the same.

Q. But you didn't turn in a rifle that was the same as the one you had.—A. As far as I am concerned they were. I turned my rifle in again to the quartermaster-sergeant, the man I drew it from.

Q. I thought you said you selected six of the best rifles?—A. Yes, sir; but that wasn't selecting my rifle. I had another rifle then.

Q. What kind of a rifle was substituted for yours?—A. I don't know. You could take any one of them and call it a substitute for mine; as far as I am concerned you could have picked any of them.

Q. And you knew that the quartermaster-sergeant of your company was going to substitute another rifle for one which you had been charged with by the Government at that time?—A. No, sir; I didn't think anything about substituting anything at the time. All I knew, I knew then——

Q. I understood you to say that he told you that they had 6 surplus rifles in the company?—A. Those 6, they did, and it didn't matter——

Q. Wait, please; I understood you to say that he was going to reserve 6, and wished you to select 6 of the best?—A. Yes, sir.

Q. And those 6 you selected yourself?—A. Yes, sir.

Q. You knew then that he was going to substitute another rifle for your rifle in making his returns to the Government, did you not?—A. No, sir; no substitution about it—no substitution about it at all.

Q. You knew that he was not going to return your rifle?—A. Well, I had returned my rifle.

Q. But you knew that he was not going to return it?—A. It didn't matter to me whether he did or not, sir.

Q. You spoke of the Krag carbine used by the Texas rangers?—A. Yes, sir.

Q. Was that carbine an exact duplicate of this gun?—A. No, sir; it was not like ours.

Q. What was the difference between that gun and this gun [indicating]?—A. That rifle of theirs——

Senator WARNER. That is, you mean this Krag rifle we have here? Senator FOSTER. I mean the Krag rifle; yes.

The WITNESS. The United States Krag rifle has the same magazine as this, what is known as the side box.

Q. That is a United States Krag rifle.—A. Yes, sir; I know it is. That is a Krag rifle, but I am speaking of the Krag carbine. The carbine is about that much shorter than this. It was used by the United States cavalry.

By Senator FOSTER:

Q. I am asking you what was the difference between the carbine that the Texas Rangers used and this rifle?—A. The difference is that they had what is known as the box magazine that fitted under here along the trigger guard up to about here [indicating on rifle], and it was stationary; it did not open and close like this. You simply shoved the lid or the bottom off of it and laid the cartridges in from the bottom. You had to turn the carbine upside down, and, as well as I remember, it held ten rounds; but it pumped with a bolt. You could fire it about as rapidly as you can this rifle, but it didn't have this side box magazine the Krag has here [indicating]. The United States Krag-Jørgensen carbine has the magazine the same as this.

Q. I am speaking now of the carbine that the Texas Rangers had?—A. That is the one I have described. It has the magazine underneath.

Q. That is the one you have described?—A. Yes, sir; you have to turn the gun upside down to load it.

Q. What is the caliber of that rifle?—A. It is .30.

Q. What is the caliber of this rifle?—A. It is .30 also.

Q. Identically the same?—A. They would fire the same ammunition.

Q. Is the cartridge of the carbine the same as the cartridge of the rifle?—A. Yes, sir.

Q. The same in length and size, in all dimensions?—A. The same in every particular; the same charge of powder and all.

Q. You are absolutely certain about that?—A. Yes, sir; I know that to be a positive fact.

Q. And that the cartridge of the rifle can be shot out of the Krag carbine used by the Texas Rangers?—A. Yes, sir; I know that to be a fact also. I don't say all of them, but part of them.

By Senator SCOTT:

Q. You stated that you had shot them, did you not?—A. Yes, sir; I have fired that gun.

By Senator FOSTER:

Q. With the cartridge from the rifle?—A. With this Krag ammunition.

Q. Of these 20 guns that were gotten over in the Philippines, how many did I understand you to say of those guns were in your company?—A. To the best of my knowing—those are the surplus guns you have reference to?

Q. Yes.—A. I have never known the exact number, sir.

Q. How many surplus guns were in your company?—A. All that ever I knew of was those six.

Q. When was the first time you found that those six were there?—A. It was when we started packing them up, sir.

Q. What became of the other part of the 20 guns?—A. As I understand it—I have been told—they were given away.

Q. Who gave them away?—A. I suppose Captain Kilburn gave them away.

Q. Who is Captain Kilburn; the captain of your company?—A. He is regimental quartermaster of the Twenty-sixth Infantry.

Q. You understood that he gave them away?—A. Yes, sir; several.

By Senator WARNER:

Q. What were Captain Kilburn's initials?—A. D. W.

By Senator FOSTER:

Q. He was the captain who was here before us the other day?—A. Yes, sir.

Q. Did you hear that from him?—A. No, sir.

Q. Did you hear it from any reliable source?—A. Yes, sir.

Q. From whom did you hear it?—A. The men of the company.

Q. To whom did he give the guns?—A. I understand—of course I wasn't a witness of the fact, but I understand—that he gave one to Captain Church of the Medical Department and another to Lieut. W. J. Smith or Schmidt—it is Schmidt and not Smith—and another to Post Quartermaster-Sergeant Sharp, who is now at Fort Bliss.

Q. Is that all?—A. Yes; that is all I remember.

Q. Whom did you get this information from?—A. I heard the quartermaster-sergeant speak of it, who was there before, and our artificer, Noble Aman, of K Company. He told me shortly after the return from Fort Ringgold. He told me—I believe I was artificer at the time; no, I wasn't there, but he told me, anyway "I have got to give up my rifle," and I says "How is that?" He says "You know Lieutenant Schmidt shot with it up on the range, and fell in love with it, and he has gone away, and the captain told him he could have a rifle, and so he selected mine to take away with him," and so he says "I will have to give it to him and get another one."

Q. Did you know what disposition was made of any of the other ones?—A. No, sir; only from hearsay.

Q. What did you hear?—A. I understood that there was one sold to a sergeant by the name of Short.

Q. Sold to whom?—A. To Sergeant Short.

Q. Of your company?—A. Yes, sir; that is, he used to be. He is in civil life now.

Q. Who sold it to him?—A. Sergeant Cheasman.

Q. Did you know that of your own knowledge?—A. No, sir; I didn't see the transaction and I don't know anything about it except only from hearsay.

Q. Do you know of anybody else selling or giving them away?—

A. I understand Captain Kilburn has one himself.

Q. He has one still?—A. Yes, sir.

Q. That accounts for ten—eleven—of the twenty?—A. Yes, sir.

Q. Do you know what became of the others?—A. I have no idea outside of that, sir; I never even heard anything about the others.

By Senator FORAKER:

Q. Corporal, did you get any profit of any kind out of any of these transactions with respect to either the guns or the cartridges?—No, sir; I never did.

Q. Did you do anything with respect to either guns or cartridges

except what you were ordered to do by your superior officer?—A. No, sir; I never did.

By Senator PETTUS:

Q. I wanted to ask the witness one question.—A. Yes, sir.

Q. Did it ever occur to you that any of these things you did yourself were wrong?—A. You mean in obeying my orders?

Q. Anything that you have told here that you did about these rifles. Have you ever been of opinion that any of it was wrong?—A. Yes, sir; I kind of had that opinion.

Q. What?—A. I say I had that opinion of my own.

Q. You had your opinion that it was wrong?—A. Yes, sir.

Q. For you to do it?—A. Yes, sir. Well, I don't think I done anything wrong.

Q. You do not think now that you did anything wrong?—A. I didn't think it was, I say.

Q. Then you don't think now that you did anything wrong about it?—A. No, sir.

Senator PETTUS. That is all.

By Senator FOSTER:

Q. Do you think the sergeant did anything wrong, or did you think then that he was doing anything wrong?—A. Well, the way I look at it, Senator, I wouldn't have done the same thing he did; in his position I wouldn't have done it unless I had higher authority. But whether he had that authority I don't know. That is the only thing that has ever relieved me in any way in my mind—that he probably had authority for it, because he was considered a very strict soldier, and as a rule he done his duty strictly up to the handle, as the old saying is, and nobody ever questioned his authority on any subject.

Q. Did he tell you that he had authority?—A. That was always his word—that he had authority. It is customary in the Army, and that would naturally more than anything relieve my mind—that is, that it is the duty of the quartermaster-sergeant to buy, sell, or trade anything that belongs to the company in order to buy extra provisions or anything like that for the company. They even trade and sell rations and buy other stuff that is not provided by the Government.

Q. Did he ever tell you who gave him authority to substitute six old guns for six new guns?—A. No, sir; he did not. If he had any authority, he didn't give any names. He never mentioned any names at all. He just told me, "There is six rifles, extra rifles," and he says, "I want you to pick out six of the best there is in this lot and set them aside, and don't pack them," and I says, "All right," and I did that.

By Senator FRAZIER:

Q. I wanted to ask you about the ammunition?—A. Yes, sir.

Q. You spoke of cartridges, getting a surplus of ammunition on the range, and when you were down at the range at the place near Brownsville—A. Point Isabel.

Q. Point Isabel. Did the soldiers bring them back with them, each man bringing his surplus and keeping it in his locker, or otherwise?—A. I don't know, sir; I didn't come back with the company.

Q. You did not come back with the company?—A. No, sir.

Q. That was the custom, was it not?—A. If a man wanted to retain any surplus ammunition he usually carried it or hid it away some place in his baggage.

Q. In your experience in the Army, have you not found, or have you found, that soldiers retained surplus ammunition and had it about them in their lockers and otherwise?—A. Yes, sir; they always do it if they can.

Q. They always do?—A. Yes, sir; they always have all the way from five to twenty rounds.

Q. From five to twenty rounds?—A. Yes, sir; so that in case they would lose one they could replace it.

Q. That has been your experience in all the organizations you have belonged to?—A. Yes, sir.

Q. Throughout the Army?—A. Yes, sir.

Q. That a soldier has from five to ten rounds of ammunition surplus—A. At all times.

Q. At all times? It is not any trouble for him to get that either in target practice, or as you, I believe, explained, to go to the quartermaster-sergeant and say that he has lost a few rounds, and the quartermaster-sergeant would give him a few rounds?—A. On the target range there is never any question about it. They take it there and throw it down in a heap.

Q. They throw it down in a heap?—A. Yes, sir; and a man will come along and take one bandolier, or five, and string it on himself, and go on about his business.

Q. Nobody keeps track of it?—A. No, sir; as long as the sergeant keeps track of the ammunition fired. All that is required for the regular practice he sets that aside.

Q. But, as a rule, the soldier on the range takes as much as he pleases and fires as much as he pleases?—A. As long as they have surplus ammunition to expend they expend it.

Q. And if a man does not expend it he can bring it back and keep it?—A. Not if the officer knows it; no, sir. They have got to keep it on the quiet.

Q. You say they do keep it?—A. Yes, sir.

Q. It is your observation and experience in the Army that they practically all have always some extra ammunition?—A. Yes, sir. For example, a few days ago we went out on a little maneuver from Fort Sam Houston, and strict orders were given that they should not take any ammunition with them, and everybody supposed that they didn't have any; and then there came another order for the company commander, the company sergeant, to go through the men and find if they had any surplus ammunition. So he came up to one man and asked him if he had any surplus ammunition, and he said, "No;" and then he searched around his belt and found a five-round clip. He didn't even know that he had it in his belt; he didn't know that he had it himself.

Q. That was your experience only a few days ago?—A. Yes, sir; a few days ago.

Q. Did they find any other cartridges that they had?—A. No, sir; not that I know of. That man was in my immediate vicinity, and I happened to be a witness to that.

Q. You witnessed that?—A. Yes, sir. The sergeant came and asked me if I had any, and I said "No;" and he says, "Well, I will have to see;" so he went over me, too.

Q. You didn't have any on you?—A. No, sir; I didn't have any at the time.

Q. But it is the custom of all soldiers who have served in the Army with you to have surplus ammunition?—A. They always will have more or less surplus ammunition somewhere about their effects.

Q. Yes. Now, you spoke of Colonel Glenn mentioning this transaction with reference to the six guns to you only recently. Did Colonel Glenn first speak of the six guns, or did he ask you about them?—A. He told me that he knew, and tried to impress it on my mind that he knew all about it and that I did.

Q. He tried to impress it on your mind that he knew all about it?—A. Yes, sir.

Q. And therefore you had just as well tell what you knew?—A. I knew from things he told me that he did know; that he must know about it; but he had to convince me that he did know.

Q. He had to convince you first that he knew before you would acknowledge it?—A. Yes, sir.

Q. And after he convinced you, then you acknowledged it?—A. Yes, sir.

Q. The substitution and defacement of those guns; and then you knew it and confessed it?—A. Yes, sir. I said, "You are pretty well informed, Colonel. I will have to admit that all this transpired at that time."

Q. Yes; but you did not voluntarily tell him, but you only confessed after he had convinced you that he knew about it?—A. I didn't have to even acknowledge it then, but I voluntarily told him that such was the case.

Q. You did not have to acknowledge it?—A. No sir.

Q. But after you saw he knew all about it, you thought it was best to confess the whole thing?—A. Yes, sir; it was no object of mine to keep it secret. I knew that everybody in that company knew about it.

Senator FORAKER. What was that last answer? I did not hear the end of that answer.

The WITNESS. In our companies things of that kind are never kept secret in the company, because they can't be. It wouldn't surprise me to find that every man in the company knew all about it.

By Senator FRAZIER:

Q. But you had never mentioned it to anybody until you told Colonel Glenn about it?—A. Nobody had ever asked me. I never had occasion to tell anybody.

Q. But you had not voluntarily mentioned it?—A. No, sir; not that I remember.

Q. You had not mentioned it either to a member of the company or anyone else?—A. I wouldn't swear that I did or didn't.

Q. Would you swear that you did not mention it?—A. I wouldn't swear that I didn't, because I don't remember.

Q. But you are sure that you did not tell any officer—any superior officer—of this transaction until Colonel Glenn asked you?—A. Not that I know of.

Q. The new number?—A. Yes, sir.

Q. When this quartermaster-sergeant told you to select six of the best guns belonging to your company, you did select six of the best, and among the six was your gun, was it?—A. Yes, sir; I picked out as one of them my own rifle.

Q. And then you destroyed the mark or the number on your own rifle?—A. Yes, sir.

Q. Did you not know that that was a fraud upon the Government when you did that?—A. Well, I can say this, Senator, that even if I had known so, I had no right to question it. I was simply obeying orders.

Q. Yes. I say you received a certain gun from the Government, for which you were responsible and for which you were held liable for its proper care and its return, and then when this quartermaster-sergeant told you to select six guns, six of the best guns, you selected your own gun among those and destroyed the number by which it could be identified?—A. Yes, sir.

Q. And did you not know at that time that this act of yours was wrong?—A. Well, of course I thought a great deal about it, but at the same time I couldn't question it. I couldn't question the sergeant's authority.

By Senator SCOTT:

Q. You were taught to obey the orders of your superiors?—A. Yes, sir; the orders of my superiors. If my company commander told me to jump in the river out here I would jump in. Of course I don't say I wouldn't swim out.

By Senator FOSTER:

Q. That is very pretty, in theory; but if your commanding officer should tell you to commit a fraud and a wrong, would you do it?—A. I would, sir, and report the fact, if I knew it to be.

Q. Wait a moment. And you would afterwards report the fact to the commanding officer of your company or regiment?—A. If I was ordered to do anything of the kind and knew it to be a fraud, I would obey the order and then report it.

Q. That is what I was coming at. Did you ever make any report of the fact that you defaced the number upon your gun to any officer above the quartermaster-sergeant?—A. No, sir; I never did.

Q. Did you not feel it your duty as a soldier to have reported such a fact to your superior officer, or to some officer above?—A. No, sir; I had no reason to even dream of such a thing, when he told me that he had authority to do it.

Q. Whom did he tell you he had authority from?—A. I didn't ask him, but I assumed that he had it from the company commander. He was under him.

Q. Who aided you, if anyone, in destroying the numbers of the guns?—A. I don't remember, sir, whether there was anyone there or not. It seems to me, though, like the quartermaster-sergeant himself.

Q. What is that?—A. It seems to me that the quartermaster-sergeant himself helped.

Q. What kind of an instrument did you use in destroying the numbers?—A. We used what is known as a center punch.

Q. How long did it take you to destroy those numbers on six guns?—A. About four minutes. It is the same as a calking tool.

Q. Was this before or after you had sold those thousand cartridges?—A. Let me see——

Senator SCOTT. I do not think that you ought to put it that way, Senator, that he sold the cartridges.

Senator FOSTER. He delivered the cartridges and he got the money for them.

Senator SCOTT. But he sold them at the order of another man, who was his superior. He has stated that three or four times.

Senator FOSTER. He delivered them and got the money for them and then turned the money over to some one else, that is true.

Senator SCOTT. He has stated that two or three times.

By Senator FOSTER:

Q. Now, when you delivered those 1,000 cartridges and received the pay for them, was this before or after you had taken the numbers off of those guns?—A. To the best of my recollection it was afterwards.

By Senator WARNER:

Q. Right there, Senator Foster, if you will allow me to ask one question. This was in the month of June, 1906?—A. Practically all during that month, sir.

By Senator FOSTER:

Q. When these 200 cartridges were prepared by you under these instructions from the quartermaster-sergeant, was that before or after the 1,000 cartridges were disposed of?—A. To the best of my recollection, it was afterwards. I am almost positive it was afterwards.

Q. Then after the numbers on the guns were defaced and destroyed, the same quartermaster-sergeant instructed you to put 1,000 cartridges in a kerosene box and deliver them to the party who would call for them?—A. Yes, sir.

Q. And you did it and never reported that fact to any officer?—A. No, sir; because he told me that he had a written order from the company commander, and that is what I was going by. I asked him——

Q. Did you ask to see the written order?—A. Yes, sir.

Q. You say you asked to see it?—A. Yes, sir.

Q. Did you see it?—A. I don't remember whether I did or not.

Q. Who was the commanding officer of your company at that time?—A. Lieut. Allen Parker.

Q. I believe you mentioned that. When Colonel Glenn called you before him, where was he at that time; in his quarters?—A. At Fort Sam Houston; yes, sir.

Q. What was the object of calling you before him?—A. I suppose the same object that this committee has, to find out what became of those guns and the ammunition, and one thing and another. I don't know exactly. That is merely a supposition; I don't know.

Q. You had never mentioned it to a living soul up to that time?—A. No, sir; not to my knowledge.

Q. Well, if you did we would like you to refresh your memory about it.—A. No, sir; I had never thought a thing about the rifles. To tell the truth, it was a surprise when he even mentioned it to me.

Q. When you arrived at Fort Sam Houston you only found two

Q. Who was your company commander, did you say?—A. Well, at that time—

Q. At the time of this transaction?—A. Lieut. Allen Parker.

Q. Lieut. Allen Parker? Was he there at Brownsville at the time these guns were substituted and these six others were defaced?—A. No, sir.

Q. Where was he?—A. At Point Ysobel, with his company.

Q. He was not there when you actually defaced the guns?—A. No, sir.

Q. He had returned, however, when you were packing the guns up to be reshipped?—A. No, sir.

Q. He did not return until after that?—A. The company commander did not come back. He was there for a whole month.

Q. But when he did come back you did not report this fact to him at all?—A. No, sir.

Q. You never did report it to any commissioned officer in your regiment?—A. No, sir.

Q. Now, you understood, or at least I understood you to say that you understood, that the Government did not keep any record of the numbers on the guns they sent to the company?—A. Shipped to each individual company. I don't think they do. I am not positive about it.

Q. You were satisfied that that was a fact at the time of the substitution of the six old guns for the six new ones?—A. Yes, sir.

Q. You believed that the Government did not keep any record of the numbers of the guns?—A. Yes, sir.

Q. But simply sent to the company the 65 or 70 guns, or whatever number the requisition was made for?—A. Yes, sir.

Q. You felt, then, that you could readily substitute six old guns for the six new ones, including yours and Jebb's, without the Government ever knowing that you had made the change, did you not?—A. I didn't think that, but of course I would have thought it if it had been brought to bear on my mind.

Q. You thought that the Government kept no record of the number of the guns that they had sent to your company, did you not?—A. Yes, sir.

Q. That was your understanding of it?—A. Yes, sir.

Q. And therefore when you substituted six old guns for six new ones you thought that the Government would never find it out?—A. Yes, sir.

Q. That was your understanding?—A. Yes, sir.

Q. You did substitute six old guns that you say were worn, that you say had been used and shot a great deal in the Philippines, for six of the new guns that had been issued to your company?—A. No, sir; there is no special number, Senator, substituted.

Senator Scott. If you will allow me, I do not think that is fair, Senator. This witness, Mr. Chairman, has certainly tried to state his opinion on this gun question as fairly as any man I have ever heard in my life. He said simply that he obeyed orders, and that he was obeying orders, and that he did not do anything of his own volition. Now, I do not think it is fair to put him in this position, asking him if he did this and did that, and he said this and that he said that, trying to put him in the position that he knew he was *doing wrong*, when he was merely obeying orders. I do not think that

any man around this table who has been a soldier will question that when a soldier is ordered to do a certain thing, it is his duty to obey orders.

Senator FRAZIER. I think the question is a perfectly proper one.

Senator SCOTT. Let us have the testimony read, and it will show just what I say. I do not think it is proper for the Senator to try to browbeat this witness.

Senator FRAZIER. I have not tried to browbeat the witness, and I think the question is a perfectly proper question. Let the question be read.

The CHAIRMAN. The record will show for itself. Let the Senator proceed with his examination.

Senator SCOTT. I would like to have not only the last question, but the last three or four questions and answers, read. You want to put the witness in the position that he knew that this was wrong. You want to put him in the position of admitting that.

Senator FRAZIER. I figure that if he did not, he was a very great fool.

Senator FORAKER. I think, to save time, if the Senator would avoid asking any further questions on that line—

The CHAIRMAN. Go right ahead, Senator; treat the witness like you would be treated yourself.

Senator SCOTT. I would like to have the testimony read.

The CHAIRMAN. Go right ahead with your examination.

Senator FRAZIER. I would like to have the last question read at least, so that I can see what it was.

The last question and answer were read by the stenographer as follows:

Q. You did substitute six old guns that you say were worn, that you say had been used and shot a great deal in the Philippines, for six of the new guns that had been issued to your company?—A. No, sir; there is no special number, Senator, substituted.

By Senator FRAZIER:

Q. Now, I understood you to say—and if I do not understand you correctly, you can correct me—that the guns that were substituted were of the guns that had been used in the Philippines?—A. That is, partly; probably of the whole; I couldn't say.

Q. And when the quartermaster-sergeant directed you to select six of the best guns out of the company's guns that had been issued to the company you did select your gun and Mr. Jebb's gun. Did I understand you correctly in that?—A. Yes, sir.

Q. And four other guns?—A. Jebb selected his own gun. He was helping me at the time.

Q. Is Jebb the witness who has been here to-day?—A. He was the first witness, I believe.

Q. And he helped you to select these six guns, did he?—A. Yes, sir; he helped me to pack them.

Q. And he selected his own gun?—A. Yes, sir.

Q. Now, when those guns were selected, those six, were you ordered at that time to take off or destroy the numbers on those six guns, or was that at a later date?—A. That was probably a week or more later.

Q. Probably a week or more later. What did you do with the six or more guns that you selected at the time you were ordered by the

quartermaster-sergeant to select them?—A. I left them in the rack where they originally were.

Q. You left them in the rack?—A. Yes, sir; in the storeroom.

Q. That is, mixed with the other guns?—A. In the original place. The other guns were packed and gone.

Q. The other guns were packed and gone?—A. Yes, sir.

Q. And you selected these when the other guns were there?—A. Yes, sir; from the other guns.

Q. And what did you do with them when you selected them out from the other guns?—A. Set them back up in the racks.

Q. Set them back up in the racks there?—A. Yes, sir.

Q. Then how long after that was it that the quartermaster-sergeant asked you if you could destroy the numbers on these guns?—A. A week or more.

Q. A week or more?—A. Yes, sir.

Q. And then you told him that you could?—A. Yes, sir.

Q. Now, what did you do with these guns immediately after you destroyed the numbers on them?—A. Set them back in the rack.

Q. You set them back in the rack. When was it that the sergeant directed you to put these guns up on the shelves where they could not be seen?—A. As well as I remember, it was next day.

Q. The next day?—A. Yes, sir.

Q. And you did put them up on the shelves?—A. Yes, sir.

Q. At that time had the remainder of the guns with which the company had been charged been packed up and shipped off?—A. They had been packed up and shipped off; yes, sir.

Q. They had been packed up and shipped off and you left these upon the shelf?—A. Yes, sir.

Senator FRAZIER. That is all I want to ask him.

Senator SCOTT. You have been on target practice, have you?

A. Several times; yes, sir.

Q. When you go on target practice, is there a certain number of rounds of ammunition issued to each man?—A. No, sir; never only on skirmish.

Q. Not skirmish; I am talking about target practice.—A. That includes target practice. On skirmish run you are allowed only so much ammunition; that is, 20 rounds to the run.

Q. I am speaking of the range—300, 600, or 900 yards?—A. That is what is given as known distances. They are not counted out to you.

Q. You are allowed to shoot just as many times as you please?—A. They are not counted out to you.

Q. If you are only allowed ten, why would they give you fifteen or twenty?—A. They are not counted out to you. They are set out there. You could have fifty if you wanted to.

Q. But you are only allowed to fire so many times?—A. Yes, sir.

Q. And is the regulation for firing in the infantry different from the regulation for firing in the artillery—the target firing?—A. Oh, goodness! I couldn't answer that; no sir. I have never seen artillery at target practice.

Senator FORAKER. You are answering from your own experience?

A. Yes, sir.

Senator SCOTT. You are answering only as to your own regiment?

A. As to all the regiments; they are all under the same firing regulations.

Q. You are sure of that?—A. Yes, sir.

Q. Were you ever with the Twenty-fifth Infantry?—A. I have soldiered with them, sir.

Q. On the target range?—A. No, sir; not on the target range; but I was camped with them in the Spanish-American war, in Cuba; I camped right alongside of them at Chickamauga Park, and I was near a part of them at El Caney, in Cuba, in 1898.

(Witness excused.)

TESTIMONY OF THOMAS TAYLOR (COLORED)

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Did you belong to the Twenty-fifth United States Infantry in August, 1906?—A. Yes, sir.

Q. Last year?—A. Yes, sir.

Q. What company did you belong to?—A. I belonged to Company B.

Q. Company B. Where are you living now?—A. I am now living in Winchester, Ky.

Q. Was that your home before you enlisted?—A. Yes, sir.

Q. When you were discharged from the Twenty-fifth Infantry you went back to Winchester, Ky.?—A. No, sir; I went back to Beloit, Wis., and from there to Winchester, Ky.

Q. To where?—A. To Beloit, Wis.

Q. How long did you stay there?—A. I think I stayed there about two months.

Q. Were you employed there in any way?—A. Yes, sir.

Q. And then you went to Winchester, your home?—A. Yes, sir.

Q. And you were living there when you were subpoenaed a few days ago?—A. Yes, sir.

Q. How long were you in the service?—A. I was in seven years, seven months, and a few days.

Q. You were serving, then, your third enlistment when you were discharged?—A. Yes, sir.

Q. You were discharged without honor?—A. Yes, sir.

Q. In November last?—A. Yes, sir.

Q. At Fort Reno?—A. Yes, sir.

Q. Now, were you with your company the night when this shooting affray occurred at Brownsville, Tex.?—A. Yes, sir.

Q. Where were you when it commenced?—A. I was in my bunk, asleep; sir.

Q. What awakened you?—A. The shots in the town.

Q. What did you do when you got awake?—A. I dressed, went and got my gun, and fell out to roll call.

Q. Where did you find your gun?—A. I found it in the rack.

Q. Did you get your gun?—A. I could not say whether I got mine that night or not.

Q. Was there not a good deal of confusion in connection with getting the guns out of the gun racks that night?—A. Yes, sir; because everybody was crowding around to fall out and naturally you couldn't tell, hardly, whose guns you were getting.

Q. That was on account of the firing?—A. Yes, sir.

Q. Was there any light in your quarters?—A. I think there was a candle light in some parts of the quarters.

Q. Did the sergeant, Sergeant Jackson, in charge of quarters, when he opened the gun racks?—A. He opened the gun racks with a candle, I think, but I didn't see him there when he was opening them. He just opened it and went on to the next and opened it.

Q. Was the gun rack you got your gun out of open or not—unlocked, I mean?—A. Yes, sir; it was unlocked.

Q. Unlocked by Sergeant Jackson. And were the others getting out their guns at the same time you got yours?—A. Yes, sir; others were getting theirs out.

Q. Did you know whereabouts in the gun rack your gun could have been found?—A. No, sir. I could judge in the daytime, but in the night I couldn't tell where it should have been.

Q. Did you have a regular number in the gun rack for your gun?—A. Yes, sir.

Q. That gun-rack number does not correspond with the number of the gun, I suppose?—A. No, sir.

Q. Do you remember what the number of your gun was in the gun rack?—A. Fifty-eight, I think it was, sir.

Q. Do you remember in what one of the gun racks your gun was kept?—A. It was in the first-section rack, I think, sir.

Q. How many gun racks are there to a company?—A. Four gun racks.

Q. Are they numbered, 1, 2, 3, 4?—A. Yes, sir; they are numbered in sections.

Q. Numbered in sections?—A. Yes, sir.

Q. That is, the gun rack for section No. 1 is called "gun rack No. 1," is it not?—A. I don't know anything about that, sir. I know it is just generally called the first section—the first section, and the second and the third and fourth.

Q. In which one of these sections, if we are to refer to the gun racks by sections, did you keep your gun?—A. I kept mine in the first section.

Q. Where did that stand?—A. In the head of the section; at the head of the squad room.

Q. In what?—A. It stood at the head of the squad room.

Q. In the head of the squad room?—A. Yes, sir; you see the gun racks generally stay in a line, generally like this [indicating], one at the head of the table and then going on down farther.

Q. You kept your gun, then, in the gun rack that stood nearest to where you slept?—A. Yes, sir.

Q. What was happening at that gun rack when you got there, if you noticed?—A. There was a large crowd getting their guns out to fall out.

Q. Did you aim to get the gun that belonged to you?—A. No, sir; I never had time to know who it belonged to.

Q. You did get a gun out of the gun rack where your gun had been kept?—A. Yes, sir.

Q. And what did you do?—A. I fell out to roll call, sir.

Q. Now, before we go down to call the roll, tell us when your gun was last in your possession before the firing that night.—A. My gun

was last in my possession on a Saturday morning, after 9 o'clock, after inspection.

Q. On Saturday morning?—A. Yes, sir.

Q. That is—this was Monday night when the firing occurred?—A. Yes, sir; I think the firing occurred—I mean Monday morning's drill it was I had it.

Q. I will ask you if you did not go on a practice march Monday morning—if you remember about it?—A. No, sir; Monday morning I was sick.

Q. You did not go on the practice march?—A. No, sir.

Q. You were sick and were excused?—A. Yes, sir.

Q. Your company went on a practice march?—A. Yes, sir; my company went, but I didn't go.

Q. Do you remember what occurred Saturday before this firing—whether or not you had an inspection of arms?—A. Yes, sir; I stood inspection Saturday with it.

Q. You were in ranks on Saturday with your gun, and your gun was inspected, was it?—A. Yes, sir.

Q. And passed inspection all right?—A. Yes, sir.

Q. Then what did you do with it after inspection?—A. I put it in the gun rack.

Q. Had you taken it out of the gun rack from that time until this firing occurred Monday night, or did you have it out Monday?—A. Early Monday morning, when my company went out on practice march, I taken it out and reported to Lieutenant Lawrason, and was excused and went back and put my gun in the rack.

Q. Monday morning?—A. Yes, sir.

Q. What time Monday morning was it?—A. As near as I could judge it was about half past 6 o'clock.

Q. Monday morning you put it in the gun rack?—A. Yes, sir.

Q. Who was in charge at the time?—A. I disremember who was in charge.

Q. Did you have it out of the gun rack during that day?—A. No, sir.

Q. Or see it again during that day?—A. No, sir.

Q. You did not see it any more until the firing occurred that night?—A. No, sir.

Q. And you do not know whether you saw it that night?—A. No, sir; I don't know whether I had it or not that night.

Q. You do not know whether you got your own gun or some other soldier's gun out of the gun rack when the call to arms was sounded?—A. No, sir; I could not say, because it was dark.

Q. You say you went down and fell in with the company?—A. Yes, sir.

Q. And the roll was called?—A. Yes, sir.

Q. Were you with your company at roll call?—A. Yes, sir; I was with my company at roll call.

Q. How did you fall in, so far as your piece was concerned?—A. I had my piece on the ground until the command was given "Right shoulder, arms," and then I shouldered arms and answered to my name and came back to an order.

Q. That is the usual way?—A. Yes, sir.

Q. When they call it, you come to the right shoulder?—A. Yes, sir.

Q. And when a man's name is called he comes to the order?—A. Yes, sir; when a man's name is called he comes to the order.

Q. And you did that that night?—A. Yes, sir.

Q. You remember doing it?—A. Yes, sir.

Q. Who called the roll?—A. Sergeant Sanders called the roll.

Q. Was that a regular roll call?—A. Yes, sir.

Q. Was it carefully made that night?—A. Yes, sir; it was a regular roll call.

Q. You answered to your name, did you?—A. Yes, sir.

Q. Then what was done with the company after the roll call was completed?—A. Lieutenant Lawrason counted the company off, and then the major came up and ordered Lieutenant Lawrason to take the company in rear of the quarters.

Q. This was Major Penrose who gave the order?—A. Yes, sir.

Q. Was the company taken in rear of the quarters?—A. Yes, sir.

Q. What was done with the company when it got in rear of the quarters?—A. He threw the squads out and posted them along the wall.

Q. Fronting toward the town?—A. Yes, sir.

Q. Did you or not remain with your company as long as it was there?—A. I remained with my company until the order was to take us around and dismiss us.

Q. To take you around where?—A. They generally march the companies to the front of the barracks and dismiss them there.

Q. How long had you been out behind the wall in the position you have described until you were brought back to barracks and dismissed?—A. I think it was somewhere better than an hour, sir.

Q. Might it have been two hours?—A. Yes, sir; the firing was about 12. I think we were dismissed somewhere along about 2 o'clock.

Q. What did you do, when you were dismissed, with the gun you had?—A. I put the gun back in the rack where I got it from, sir.

Q. What did you do then?—A. After I put my gun back in the rack I went back to bed.

Q. And remained there until when?—A. Until the first call the next morning.

Q. What happened when you were called the next morning?—A. Next morning at drill call when we fell out we stood inspection instead of drill.

Q. Now, when the drill call was sounded, what did you do about your gun, if anything?—A. I went and got my gun and stood inspection, sir.

Q. That morning—it was daylight?—A. Yes, sir.

Q. When you went back to the gun rack?—A. Yes, sir.

Q. Your gun was there, was it?—A. Yes, sir.

Q. The gun that had been assigned to you and belonged to you?—A. Yes, sir.

Q. You then got your gun?—A. Yes, sir.

Q. Do you know whether it was in the notch where it belonged—that is, where No. 58 belonged?—A. Yes, sir.

Q. Did you look at the number?—A. No, sir; I never taken that trouble, because I could tell my gun by the color without a number, before I looked down to find the number.

Q. You could tell by the color of your gun?—A. Yes, sir; the majority of them is different from others.

Q. Carrying a gun for some time, you got to learn different special features of a gun?—A. Yes, sir.

Q. It is on account of the grain in the wood, the chairman suggests.—A. Yes, sir.

Q. Something like that?—A. Yes, sir.

Q. At any rate, you got your gun?—A. Yes, sir.

Q. You know that you got your own gun—took it out of the rack?—A. Yes, sir; I know I had my own gun for inspection the next morning.

Q. You got your own gun and went and fell in with the company?—A. Yes, sir.

Q. Then your gun was inspected, I understood you to say?—A. Yes, sir; my gun was inspected by Lieutenant Lawrason.

Q. State whether or not he passed your gun as all right.—A. Yes, sir; Lieutenant Lawrason passed my gun all right. The men he condemned he stepped out.

Q. He did not step you to one side?—A. No, sir.

Q. You were not one of the six or seven men who were stepped aside to the front or rear and reinspected?—A. No, sir; I wasn't one of them.

Q. Your gun was inspected by Lieutenant Lawrason on that morning without your knowing beforehand that it was to be inspected?—A. Yes, sir.

Q. And it was passed?—A. Yes, sir.

Q. Now, after that inspection was completed, what were you required to do then, or your company?—A. After the company was inspected the company was detailed then for guard. I first went on picket post and then was removed from there and put on the main guard.

Q. You went with Company B to relieve Company C?—A. Yes, sir.

Q. Company C had been on guard duty all night?—A. Yes, sir; Company C had been on guard duty all night.

Q. You went on post?—A. Yes, sir.

Q. They had cossack post?—A. Yes, sir.

Q. Did you keep up that arrangement of cossack post when you went on as their relief the next morning?—A. No, sir; I was relieved from cossack post and put on the main guard.

Q. I mean your company relieved C Company and took the place of it, wherever it had been—the company, I mean.—A. Yes, sir; yes, sir.

Q. Now, explain what happened to you.—A. After I was put on the cossack post the first sergeant sent around for me to report at the quarters and go on guard at the main post.

Q. Is that the post at the guardhouse?—A. Yes, sir; the post at the guardhouse.

Q. And you did that, did you?—A. Yes, sir.

Q. Then did you have to go through guard mount?—A. No, sir; we had no guard mount.

Q. You had no guard mount?—A. No, sir.

Q. State where you were posted and what happened, if anything, with respect to your gun that morning.—A. I don't understand—

Q. I say, state again what, if anything, happened with respect to your gun when you were ordered to go on this post guard duty.—A. At guard mount—I didn't attend the guard mount; we didn't have any; didn't attend any guard mount from the company. Just so many men were taken over under a noncommissioned officer and relieved the old guard that morning.

Q. Yes. What I am asking you to find out—I don't know anything about it—is whether when you went on guard duty there was another inspection of arms such as usually happens when men are put on guard duty?—A. Yes, sir; just before they are fixing to put you on post they inspect your guns.

Q. That is the inspection?—A. Yes, sir.

Q. You have guard mount every morning?—A. Yes, sir.

Q. In connection with the guard mount the guns are inspected?—A. Their guns—all the guns—but the guns were not inspected that morning for the main guard.

Q. For the main guard?—A. Yes, sir.

Q. Did you have any inspection of arms at all except that which you had with your company under Lieutenant Lawrason?—A. No more than by the corporal when he was fixing to put me on post.

Q. By the corporal when he put you on post?—A. Yes, sir; he never taken the gun; he just looked at it.

Q. The only inspection you had, then, was the one you have told us about, where Lieutenant Lawrason inspected you?—A. Yes, sir.

Q. How long did you remain on guard duty?—A. I stayed on guard twenty-four hours.

Q. That is to say, you were put on duty four hours with your relief and off duty four hours for a rest?—A. Yes, sir.

Q. Do you know where you were posted that day?—A. Yes, sir; on post No. 1, in front of the guardhouse.

Q. Now, Sergeant, did you ever fire your gun?—A. Yes, sir; I fired it during the target season.

Q. Where was the target practice you refer to?—A. At Fort Niobrara.

Q. Fort Niobrara?—A. Yes, sir.

Q. You were with Company B at Fort Niobrara?—A. Yes, sir.

Q. Were you with your company when these new guns were issued to the companies?—A. Yes, sir.

Q. And you got the new ammunition then?—A. Yes, sir.

Q. Do you remember about what time that was?—A. No, sir; I don't.

Q. About the middle of April, we have been told. That is in the record as an undisputed fact. Did you engage with your company at Fort Niobrara in target practice?—A. Yes, sir; I went through the whole practice.

Q. You went through the whole practice?—A. Yes, sir.

Q. Firing this gun from day to day there, as you were required to do?—A. Yes, sir.

Q. And you left Fort Niobrara for Brownsville with Company B, did you?—A. Yes, sir; I left Fort Niobrara for Brownsville with Company B.

Q. Now, state whether or not you at any time, after you left Fort Niobrara, fired this gun, prior to the time when the firing occurred

at Brownsville on the 13th of August, 1906?—A. No, sir; I never did fire it any more after I left Niobrara.

Q. State whether or not anybody else ever fired it, to your knowledge, after you left Fort Niobrara, prior to this firing.—A. No, sir; I never known of anyone firing it.

Q. What is that?—A. I never known anyone to fire it at all.

Q. You are Private Thomas Taylor?—A. Yes, sir.

Q. You were simply a private at this time?—A. Yes, sir.

Q. We are told by an official report that has been made and by other testimony in connection with it, that certain empty cartridge cases were picked up the morning after this firing in Brownsville, and that they have been subjected to an examination, with the result that it appears, according to the examiners, that 11 of these empty cases so picked up in Brownsville appear to have been fired out of your gun. Do you remember the number of the gun you had?—A. Yes, sir.

Q. What was the number of your gun?—A. The number of the last gun I had was 42288.

The CHAIRMAN. 42288?

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. That is the gun that is charged to you, and that is the gun that is referred to in this report. Now, if your gun was fired at Brownsville that night, it was not fired by you, as I understand you?—A. No, sir; my gun wasn't fired by me.

Q. Now, you found your gun in the rack in the morning locked up all right, and went immediately upon inspection with it, as I understand you, and it was inspected by your company commander and found to be clean. Have you any idea or any knowledge of any fact that would lead you to suspect that your gun was fired in Brownsville that night by anybody else?—A. Why, no sir; I don't think it was.

Q. Could it have been fired and cleaned and put back in that rack and then taken by you on inspection the next morning, and no sign of powder stain or anything else be exhibited by it?—A. No, sir; I don't think a gun could be fired at night and cleaned without a light and then be all right.

Q. You were in the Army seven years and more as you have stated?—A. Yes, sir.

Q. You have had experience in cleaning not only this gun, but also the Krag-Jørgensen gun. They are alike in some parts?—A. Yes, sir.

Q. You had to have a regular company inspection every Saturday morning, did you not?—A. Yes, sir.

Q. And you had to have a regular inspection of your gun, a rigid one, every time you were on guard, at guard mounting, so that you have had experience in cleaning these guns, have you?—A. Yes, sir; I have.

Q. How long does it take, according to your experience, to clean one of these guns?—A. It takes from twenty to thirty minutes, sir.

Q. That is your experience. Is that the experience of your comrades, according to your observation? Does it take them as long as it does you, as a rule?—A. Yes; I think it does.

Q. Can you clean one of these guns in the dark, in the night-time?—A. No, sir; I couldn't, and I don't think anyone else could.

Q. What would be the difficulty about cleaning one of these guns in the dark?—A. I don't think you could get the powder out. After cleaning a gun you have to look in it. That is, to keep it from rusting you have to run a rag in it, and look in it to see whether you have got it clean or not.

Q. Can you clean one of these guns except by saturating a rag with water or sal soda or something else and swabbing it out until you get it clean?—A. No, sir; I never have seen one cleaned except by using a rag. They have a gun brush.

Q. About that gun brush that we have heard of occasionally, did you ever try to clean your gun with it?—A. Yes, sir; I have.

Q. Could you clean your gun so that it would pass inspection with that after firing it?—A. No, sir.

Q. After using the wet rag you have to dry it?—A. Yes, sir; to dry it.

Q. How many times with wet rags would you have to swab it?—A. A dozen times sometimes, or more.

Q. And the same number of times with dry rags?—A. Yes, sir.

Q. After you got done cleaning out the bore of the rifle, what else was there to do to clean the gun for inspection after it had been fired?—A. After cleaning the barrel the bore had to be cleaned.

Q. Do you speak of the bore in distinction to the barrel?—A. Yes, sir; it is a little part right down at the end of the barrel. I have forgotten the name of it.

Q. That is the chamber.—A. No, sir; it is above the chamber. It has to be cleaned out thoroughly. The powder gets into it.

Q. You have to clean the chamber then, do you not?—A. Yes, sir.

Q. Are there or not crevices or depressions in there on account of the arrangement of the magazine of the gun that can not be reached except with difficulty?—A. I don't understand you, sir.

Q. I say are there or not places in the chamber of the gun that can not be reached except with difficulty, such as recesses and crevices that are made by the arrangement of the magazine of the gun?—A. No, sir; I don't think there is.

Q. I wish you would take that gun right behind you and open up the chamber and show us just what you have to do. [The witness took the gun out of the gun rack.] Open up that gun and show us what you have to do to thoroughly clean the chamber.—A. After firing the gun the powder and smoke goes up in there. To thoroughly clean the gun so that it will pass any kind of inspection, after firing the gun, after cleaning the barrel you have to get a stick and clean up in there and get the powder out of there [indicating].

Q. Could you do that in the dark at all?—A. No, sir.

Q. That is what I wanted to get at. That takes time, does it?—A. Yes, sir; it takes more time in here than it does in the barrel.

Q. And it requires light? You have to have light?—A. Yes, sir; it requires light.

Q. So that it could not have been done in the dark. Now, was there, so far as you know, any time after this firing commenced when your gun, if it had been used in that firing, could have been cleaned between the time of the firing and the time when you found it in the

gun rack in the morning all spick and span and all ready for inspection?—A. No, sir; I don't think there was.

Q. You could not have cleaned it when you were out behind the wall, could you, in the dark?—A. No, sir; it couldn't have been cleaned out there at all.

Q. It was a pretty dark night?—A. Yes, sir.

Q. Just one other question I will ask you before we adjourn. I am going to ask you a whole lot to-morrow, but just one other one before we adjourn. Did you have anything to do with the shooting up of Brownsville?—A. No, sir; I don't know anything of it at all.

Q. Do you know of anybody else in your company or any other company in your battalion who had anything to do with the shooting up of Brownsville?—A. No, sir; I never heard anything at all; never heard anything about who it was or who they thought it was.

Q. Have you kept any knowledge away from anyone that you had in regard to this matter—that is, have you refused to tell any officer or anybody all you knew about it?—A. No, sir; I have told every officer that asked me during the investigation. I have told them all I knew.

Q. You never kept anything back?—A. No, sir.

Q. You are not keeping anything back from us now?—A. No, sir.

Q. Now, if any of the shells that were fired were fired out of that gun, I understand you they must have been fired before you left Fort Niobrara?—A. They were fired before I left Fort Niobrara if they were fired out my gun at all.

Q. You did not fire any at all?—A. No, sir; I haven't fired my gun after I left Fort Niobrara and the time of turning it in.

Q. And when you found it in the rack in the morning it was just in the same condition as it was in when you put it in and all right?—A. Yes, sir.

Senator FORAKER. I will suspend here now. Here is a package of cartridges, as I understand. The package was handed me by Private Joseph J. Barnett. He said this package was handed him by Post Quartermaster-Sergeant Osborn, who testified before us a week ago, and said, among other things, that he had gathered up in the barracks after the Twenty-sixth Infantry left forty rounds of Krag-Jørgensen ammunition, which he had at his home in Fort Sam Houston, Tex., and I asked him, as members of the committee will remember, if he would send it to us as an exhibit.

Senator FOSTER. Did he not say that that was in a bandolier?

Senator FORAKER. No, sir. I have no suggestion to make about it now. I just want to mention it. I have not opened the package, and I do not know what condition it is in. We simply asked the man if he would send this to us. He said he would, and he has done so.

(At 4.20 o'clock p. m. the committee adjourned until to-morrow, March 26, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, March 26, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Warner, Pettus, Foster, and Frazier.

After twenty minutes spent in executive session the committee resumed the hearing.

TESTIMONY OF THOMAS TAYLOR (COLORED)—Continued.

THOMAS TAYLOR, colored, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. Do you recall about what place in the company you stood in line when it was formed that night after the firing—how near the right or left or center?—A. Yes, sir; I think I stood about No. 1 in the second squad.

Q. How many men would be to your right?—A. I stood the fifth man—four men I think were on my right.

Q. Were you in the rear rank?—A. No; I was in the front rank.

Q. With four men on your right?—A. Yes, sir.

Q. And then all the rest of the company to your left?—A. Yes, sir.

Q. You fell in in the order in which you came down out of the barracks, I suppose?—A. Yes, sir.

Q. Does that indicate that you were one of the first men to get into line?—A. Yes, sir.

Q. That only eight or nine men were ahead of you?—A. Yes, sir.

Q. Do you remember the roll being called?—A. Yes, sir; I do.

Q. You remember answering to your name?—A. Yes, sir.

Q. I think I asked you how you fell in, in what way, with your gun in what position, how you held it when you fell into the rank, and I think you said you had your gun at right shoulder.—A. No, sir; I had my piece at an order.

Senator WARNER. And then he said he came to the right shoulder, and then to an order.

By Senator FORAKER:

Q. What has your gun to do with the roll call? What position is it in?—A. At the time of the calling of the roll, at the time a man answers to his name, he brings his gun to an order.

Q. So that as you stand in line for the roll call you hold your gun at the right shoulder?—A. Whenever you fall in, you fall in at an order, and the first sergeant commands "Right shoulder arms," and then he calls the roll.

Q. Do you know Joseph L. Wilson?—A. Yes, sir.

Q. He belonged to Company B, did he?—A. Yes, sir.

Q. Did you see him there that night?—A. Yes, sir; when I first fell in Joseph L. Wilson was on my left.

Q. Immediately on your left?—A. Immediately on my left when I first fell in, but after I fell in, after the lieutenant counted the company off, then so many men fell out to get more ammunition,

and whether Wilson fell out or remained on my left I am not positive about it.

Q. He fell out from your side. Do you know what became of him?—A. I think he went on in the last squad after he fell back in. I think he fell back in the last squad of the company.

Q. But you distinctly remember seeing him, do you?—A. I remember Wilson forming on my left.

Q. Did you see Ernest English that night?—A. No, sir; I don't remember seeing Ernest English, but I remember hearing him answer to his name at roll call, and I remember seeing him after I fell in line at the rear of the quarters.

Q. Did you listen as the roll was called to see whether anybody there was missing?—A. Yes, sir.

Q. Was anybody missing so far as you know who was not accounted for?—A. No, sir; every man that was not there was accounted for.

Senator FORAKER. You may cross-examine.

By Senator WARNER:

Q. You gave more than ordinary attention to the roll call that night?—A. Yes, sir.

Q. Why?—A. Because the firing was going on at the time and I did not know who was out, and naturally I paid more attention to it at that time than at another time.

Q. You did not know who was out?—A. No, sir.

Q. That is, you did not know what soldiers might be out?—A. No, sir.

Q. What made you think some of the soldiers might be out in the firing?—A. I did not know who was firing at the time.

Q. Who stood next to Joseph Wilson in line?—A. I don't know, sir; on his left I could not tell who stood next to him.

Q. Who stood next to you on the right?—A. Holloman stood on my right.

Q. He was the man interested in the saloon?—A. I don't know whether he was interested in the saloon or not.

Q. You knew of it, didn't you, by report?—A. I heard of it; yes, sir.

Q. And who was next on his right?—A. I don't know, sir, who was next on Holloman's right, sir.

Q. You can tell each man that answered to his name?—A. Why, yes; I think I can—yes, sir; I can.

Q. What makes you remember that you heard Ernest English answer to his name?—A. What makes me remember it? Any time a man answers to his name he answers "Here" when the first sergeant calls his name.

Q. I know, but what made you pay attention to him especially?—A. I did not pay special attention to English. I paid special attention to the whole company.

Q. Who else did you hear answer to his name?—A. I heard the whole company.

Q. Can you name another one?—A. Yes, sir.

Q. And you were paying special attention because you did not know who might be out?—A. Yes, sir.

Q. You knew that the order had been issued the night before

that all men should be in the barracks by 8 o'clock, didn't you?—A. Yes, sir; I did.

Q. You knew the cause of that order, didn't you?—A. No, sir; I did not know the cause of it.

Q. But that was unusual?—A. Yes, sir; it was unusual.

Q. You had heard at that time of this assault, whatever it was, on Mrs. Evans?—A. No, sir; I had not heard any official report of it at all.

Q. But you had seen it in the papers, hadn't you?—A. No, sir; I had not seen anything in the paper concerning it.

Q. You had heard of it?—A. I had heard some speaking of the reason why the order was issued, but I never heard it from an officer or a noncommissioned officer.

Q. But you heard it?—A. Yes, sir.

Q. From whom did you hear it?—A. I heard the soldiers talking about it, but it was not said what woman it was that had been attempted, or that it was said had been attempted.

Q. Of course you did not know anything, and I do not say it is so, but that was the report?—A. Yes, sir; I heard, but it was not officially that I heard it.

Q. You were asleep when the firing commenced?—A. Yes, sir.

Q. Where was the first firing you heard?—A. The first firing that I heard sounded like it was in town.

Q. Well, that is a little indefinite.—A. Sir?

Q. What part of the town?—A. I could not exactly tell what part of the town it was in, for after the firing was going on then the noise began in the quarters, and I could not tell what part of the town exactly the firing was in.

Q. Was it near the barracks?—A. No, sir; it did not sound like it was near the barracks until afterwards. After I fell out in front of the company it sounded like the firing was near the barracks, about 500 or 600 yards.

Q. That is, when it was getting nearer the barracks it seemed within 500 or 600 yards?—A. Yes, sir.

Senator SCOTT. Do you want me to explain this map to the witness?

Senator WARNER. Yes; I wish you would.

(Senator Scott explained to the witness the location of the various streets and buildings on the map.)

Q. Do you get an idea of the grounds?—A. Yes, sir; I have an idea of the grounds.

By Senator WARNER:

Q. You understand the map generally, now, Mr. Taylor?—A. Yes, sir.

Q. Now, before this shooting that you heard, that you place 500 or 600 yards off, how much farther off did the shooting seem to be?—A. Well, sir, I don't know. I could not pay much attention to the first shooting at least, there was so much noise; I could not tell exactly where it was, to say how far it was off.

Q. I know, but the noise commenced by the men getting up and hunting up their guns.—A. The men was falling out with their guns during the time the shooting was going on, and I was just waked up out of a slumber.

Q. The men were getting their guns when you waked up?—A. Yes, sir.

Q. And they were making a noise getting their guns, then?—A. Yes, sir.

Q. Then you did not hear the call to arms?—A. Yes, sir; the call to arms was going all the time the firing was going on. Part of the time the firing was going on rapidly.

Q. Did you hear the call to arms after you waked up?—A. Yes, sir. The call to arms was going on at the time they were firing.

Q. And the call to arms was going on when the men were there getting their guns?—A. Yes, sir.

Q. Then there were quite a number up, making a noise getting their guns, before you got up?—A. I don't know, sir, about the noise they made before I got up, but I know there was quite a number of them up when I got up.

Q. You got up and dressed?—A. Yes, sir; I partly dressed.

Q. Well, you put on your trousers and your shoes and what else?—A. My trousers, shoes, and hat.

Q. And got your gun?—A. Yes, sir.

Q. Was any of that shooting as near the barracks as the garrison road?—A. Why, I don't know, sir, how near it was. From what I could learn of the shooting, there was shooting before I waked up, and I could not tell where they were at. In fact, I don't know where they were at after I woke up.

Q. You would not attempt to locate it?—A. No, sir; I could not.

Q. Do you know where that alley is there, looking at the map?—A. Yes, sir; I know where the alley is, sir.

Q. What alley are you speaking of?—A. Speaking of the alley, I think, that led right in the rear of B Company's quarters.

Q. Where was the shooting with reference to that alley?—A. I don't know, sir; I can't tell.

Q. You know where the telegraph office was, there at the corner of Elizabeth street and the garrison road?—A. Yes, sir.

Q. Where was it with reference to that?—A. I could not tell exactly about where it was in reference to that, sir.

Q. Do you know where the Cowen house was, marked "2" on that map, there at the corner of the alley between Elizabeth street and Fourteenth street?

Senator SCOTT (referring to the map). There is the gate and there is the Cowen house and there is the telegraph office.

By Senator WARNER:

Q. You knew where the Cowen house was?—A. No, sir. Probably I seen the house, but I did not know anything about what was the name of it.

Q. Did you hear any shouting?—A. Shouting; no, sir; I did not.

Q. Did you hear any noise at all?—A. No, sir; I heard no noise at all.

Q. Did you hear any gun fired inside the grounds of the fort?—A. Of the fort: no, sir; I did not.

Q. This gun of yours was in the gun rack when you got up?—A. Yes, sir.

Q. And you don't know whether you got your gun or not?—A. I

quartermaster-sergeant to select them?—A. I left them in the rack where they originally were.

Q. You left them in the rack?—A. Yes, sir; in the storeroom.

Q. That is, mixed with the other guns?—A. In the original place. The other guns were packed and gone.

Q. The other guns were packed and gone?—A. Yes, sir.

Q. And you selected these when the other guns were there?—A. Yes, sir; from the other guns.

Q. And what did you do with them when you selected them out from the other guns?—A. Set them back up in the racks.

Q. Set them back up in the racks there?—A. Yes, sir.

Q. Then how long after that was it that the quartermaster-sergeant asked you if you could destroy the numbers on these guns?—A. A week or more.

Q. A week or more?—A. Yes, sir.

Q. And then you told him that you could?—A. Yes, sir.

Q. Now, what did you do with these guns immediately after you destroyed the numbers on them?—A. Set them back in the rack.

Q. You set them back in the rack. When was it that the sergeant directed you to put these guns up on the shelves where they could not be seen?—A. As well as I remember, it was next day.

Q. The next day?—A. Yes, sir.

Q. And you did put them up on the shelves?—A. Yes, sir.

Q. At that time had the remainder of the guns with which the company had been charged been packed up and shipped off?—A. They had been packed up and shipped off; yes, sir.

Q. They had been packed up and shipped off and you left these upon the shelf?—A. Yes, sir.

Senator FRAZIER. That is all I want to ask him.

Senator SCOTT. You have been on target practice, have you?

A. Several times; yes, sir.

Q. When you go on target practice, is there a certain number of rounds of ammunition issued to each man?—A. No, sir; never only on skirmish.

Q. Not skirmish; I am talking about target practice.—A. That includes target practice. On skirmish run you are allowed only so much ammunition; that is, 20 rounds to the run.

Q. I am speaking of the range—300, 600, or 900 yards?—A. That is what is given as known distances. They are not counted out to you.

Q. You are allowed to shoot just as many times as you please?—A. They are not counted out to you.

Q. If you are only allowed ten, why would they give you fifteen or twenty?—A. They are not counted out to you. They are set out there. You could have fifty if you wanted to.

Q. But you are only allowed to fire so many times?—A. Yes, sir.

Q. And is the regulation for firing in the infantry different from the regulation for firing in the artillery—the target firing?—A. Oh, goodness! I couldn't answer that; no sir. I have never seen artillery at target practice.

Senator FORAKER. You are answering from your own experience?

A. Yes, sir.

Senator SCOTT. You are answering only as to your own regiment?

A. As to all the regiments; they are all under the same firing regulations.

Q. You are sure of that?—A. Yes, sir.

Q. Were you ever with the Twenty-fifth Infantry?—A. I have soldiered with them, sir.

Q. On the target range?—A. No, sir; not on the target range; but I was camped with them in the Spanish-American war, in Cuba; I camped right alongside of them at Chickamauga Park, and I was near a part of them at El Caney, in Cuba, in 1898.

(Witness excused.)

TESTIMONY OF THOMAS TAYLOR (COLORED)

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Did you belong to the Twenty-fifth United States Infantry in August, 1906?—A. Yes, sir.

Q. Last year?—A. Yes, sir.

Q. What company did you belong to?—A. I belonged to Company B.

Q. Company B. Where are you living now?—A. I am now living in Winchester, Ky.

Q. Was that your home before you enlisted?—A. Yes, sir.

Q. When you were discharged from the Twenty-fifth Infantry you went back to Winchester, Ky.?—A. No, sir; I went back to Beloit, Wis., and from there to Winchester, Ky.

Q. To where?—A. To Beloit, Wis.

Q. How long did you stay there?—A. I think I stayed there about two months.

Q. Were you employed there in any way?—A. Yes, sir.

Q. And then you went to Winchester, your home?—A. Yes, sir.

Q. And you were living there when you were subpoenaed a few days ago?—A. Yes, sir.

Q. How long were you in the service?—A. I was in seven years, seven months, and a few days.

Q. You were serving, then, your third enlistment when you were discharged?—A. Yes, sir.

Q. You were discharged without honor?—A. Yes, sir.

Q. In November last?—A. Yes, sir.

Q. At Fort Reno?—A. Yes, sir.

Q. Now, were you with your company the night when this shooting affray occurred at Brownsville, Tex.?—A. Yes, sir.

Q. Where were you when it commenced?—A. I was in my bunk, asleep; sir.

Q. What awakened you?—A. The shots in the town.

Q. What did you do when you got awake?—A. I dressed, went and got my gun, and fell out to roll call.

Q. Where did you find your gun?—A. I found it in the rack.

Q. Did you get your gun?—A. I could not say whether I got mine that night or not.

Q. Was there not a good deal of confusion in connection with getting the guns out of the gun racks that night?—A. Yes, sir; because everybody was crowding around to fall out and naturally you couldn't tell, hardly, whose guns you were getting.

Q. That was on account of the firing?—A. Yes, sir.

Q. Was there any light in your quarters?—A. I think there was a candle light in some parts of the quarters.

Q. Did the sergeant, Sergeant Jackson, in charge of quarters, when he opened the gun racks?—A. He opened the gun racks with a candle, I think, but I didn't see him there when he was opening them. He just opened it and went on to the next and opened it.

Q. Was the gun rack you got your gun out of open or not—unlocked, I mean?—A. Yes, sir; it was unlocked.

Q. Unlocked by Sergeant Jackson. And were the others getting out their guns at the same time you got yours?—A. Yes, sir; others were getting theirs out.

Q. Did you know whereabouts in the gun rack your gun could have been found?—A. No, sir. I could judge in the daytime, but in the night I couldn't tell where it should have been.

Q. Did you have a regular number in the gun rack for your gun?—A. Yes, sir.

Q. That gun-rack number does not correspond with the number of the gun, I suppose?—A. No, sir.

Q. Do you remember what the number of your gun was in the gun rack?—A. Fifty-eight, I think it was, sir.

Q. Do you remember in what one of the gun racks your gun was kept?—A. It was in the first-section rack, I think, sir.

Q. How many gun racks are there to a company?—A. Four gun racks.

Q. Are they numbered, 1, 2, 3, 4?—A. Yes, sir; they are numbered in sections.

Q. Numbered in sections?—A. Yes, sir.

Q. That is, the gun rack for section No. 1 is called "gun rack No. 1," is it not?—A. I don't know anything about that, sir. I know it is just generally called the first section—the first section, and the second and the third and fourth.

Q. In which one of these sections, if we are to refer to the gun racks by sections, did you keep your gun?—A. I kept mine in the first section.

Q. Where did that stand?—A. In the head of the section; at the head of the squad room.

Q. In what?—A. It stood at the head of the squad room.

Q. In the head of the squad room?—A. Yes, sir; you see the gun racks generally stay in a line, generally like this [indicating], one at the head of the table and then going on down farther.

Q. You kept your gun, then, in the gun rack that stood nearest to where you slept?—A. Yes, sir.

Q. What was happening at that gun rack when you got there, if you noticed?—A. There was a large crowd getting their guns out to fall out.

Q. Did you aim to get the gun that belonged to you?—A. No, sir; I never had time to know who it belonged to.

Q. You did get a gun out of the gun rack where your gun had been kept?—A. Yes, sir.

Q. And what did you do?—A. I fell out to roll call, sir.

Q. Now, before we go down to call the roll, tell us when your gun was last in your possession before the firing that night.—A. My gun

was last in my possession on a Saturday morning, after 9 o'clock, after inspection.

Q. On Saturday morning?—A. Yes, sir.

Q. That is—this was Monday night when the firing occurred?—A. Yes, sir; I think the firing occurred—I mean Monday morning's drill it was I had it.

Q. I will ask you if you did not go on a practice march Monday morning—if you remember about it?—A. No, sir; Monday morning I was sick.

Q. You did not go on the practice march?—A. No, sir.

Q. You were sick and were excused?—A. Yes, sir.

Q. Your company went on a practice march?—A. Yes, sir; my company went, but I didn't go.

Q. Do you remember what occurred Saturday before this firing—whether or not you had an inspection of arms?—A. Yes, sir; I stood inspection Saturday with it.

Q. You were in ranks on Saturday with your gun, and your gun was inspected, was it?—A. Yes, sir.

Q. And passed inspection all right?—A. Yes, sir.

Q. Then what did you do with it after inspection?—A. I put it in the gun rack.

Q. Had you taken it out of the gun rack from that time until this firing occurred Monday night, or did you have it out Monday?—A. Early Monday morning, when my company went out on practice march, I taken it out and reported to Lieutenant Lawrason, and was excused and went back and put my gun in the rack.

Q. Monday morning?—A. Yes, sir.

Q. What time Monday morning was it?—A. As near as I could judge it was about half past 6 o'clock.

Q. Monday morning you put it in the gun rack?—A. Yes, sir.

Q. Who was in charge at the time?—A. I disremember who was in charge.

Q. Did you have it out of the gun rack during that day?—A. No, sir.

Q. Or see it again during that day?—A. No, sir.

Q. You did not see it any more until the firing occurred that night?—A. No, sir.

Q. And you do not know whether you saw it that night?—A. No, sir; I don't know whether I had it or not that night.

Q. You do not know whether you got your own gun or some other soldier's gun out of the gun rack when the call to arms was sounded?—A. No, sir; I could not say, because it was dark.

Q. You say you went down and fell in with the company?—A. Yes, sir.

Q. And the roll was called?—A. Yes, sir.

Q. Were you with your company at roll call?—A. Yes, sir; I was with my company at roll call.

Q. How did you fall in, so far as your piece was concerned?—A. I had my piece on the ground until the command was given "Right shoulder, arms," and then I shouldered arms and answered to my name and came back to an order.

Q. That is the usual way?—A. Yes, sir.

Q. When they call it, you come to the right shoulder?—A. Yes, sir.

Q. And when a man's name is called he comes to the order?—A. Yes, sir; when a man's name is called he comes to the order.

Q. And you did that that night?—A. Yes, sir.

Q. You remember doing it?—A. Yes, sir.

Q. Who called the roll?—A. Sergeant Sanders called the roll.

Q. Was that a regular roll call?—A. Yes, sir.

Q. Was it carefully made that night?—A. Yes, sir; it was a regular roll call.

Q. You answered to your name, did you?—A. Yes, sir.

Q. Then what was done with the company after the roll call was completed?—A. Lieutenant Lawrason counted the company off, and then the major came up and ordered Lieutenant Lawrason to take the company in rear of the quarters.

Q. This was Major Penrose who gave the order?—A. Yes, sir.

Q. Was the company taken in rear of the quarters?—A. Yes, sir.

Q. What was done with the company when it got in rear of the quarters?—A. He threw the squads out and posted them along the wall.

Q. Fronting toward the town?—A. Yes, sir.

Q. Did you or not remain with your company as long as it was there?—A. I remained with my company until the order was to take us around and dismiss us.

Q. To take you around where?—A. They generally march the companies to the front of the barracks and dismiss them there.

Q. How long had you been out behind the wall in the position you have described until you were brought back to barracks and dismissed?—A. I think it was somewhere better than an hour, sir.

Q. Might it have been two hours?—A. Yes, sir; the firing was about 12. I think we were dismissed somewhere along about 2 o'clock.

Q. What did you do, when you were dismissed, with the gun you had?—A. I put the gun back in the rack where I got it from, sir.

Q. What did you do then?—A. After I put my gun back in the rack I went back to bed.

Q. And remained there until when?—A. Until the first call the next morning.

Q. What happened when you were called the next morning?—A. Next morning at drill call when we fell out we stood inspection instead of drill.

Q. Now, when the drill call was sounded, what did you do about your gun, if anything?—A. I went and got my gun and stood inspection, sir.

Q. That morning—it was daylight?—A. Yes, sir.

Q. When you went back to the gun rack?—A. Yes, sir.

Q. Your gun was there, was it?—A. Yes, sir.

Q. The gun that had been assigned to you and belonged to you?—A. Yes, sir.

Q. You then got your gun?—A. Yes, sir.

Q. Do you know whether it was in the notch where it belonged—that is, where No. 58 belonged?—A. Yes, sir.

Q. Did you look at the number?—A. No, sir; I never taken that trouble, because I could tell my gun by the color without a number, *before I looked down to find the number.*

Q. You could tell by the color of your gun?—A. Yes, sir; the majority of them is different from others.

Q. Carrying a gun for some time, you got to learn different special features of a gun?—A. Yes, sir.

Q. It is on account of the grain in the wood, the chairman suggests.—A. Yes, sir.

Q. Something like that?—A. Yes, sir.

Q. At any rate, you got your gun?—A. Yes, sir.

Q. You know that you got your own gun—took it out of the rack?—A. Yes, sir; I know I had my own gun for inspection the next morning.

Q. You got your own gun and went and fell in with the company?—A. Yes, sir.

Q. Then your gun was inspected, I understood you to say?—A. Yes, sir; my gun was inspected by Lieutenant Lawrason.

Q. State whether or not he passed your gun as all right.—A. Yes, sir; Lieutenant Lawrason passed my gun all right. The men he condemned he stepped out.

Q. He did not step you to one side?—A. No, sir.

Q. You were not one of the six or seven men who were stepped aside to the front or rear and reinspected?—A. No, sir; I wasn't one of them.

Q. Your gun was inspected by Lieutenant Lawrason on that morning without your knowing beforehand that it was to be inspected?—A. Yes, sir.

Q. And it was passed?—A. Yes, sir.

Q. Now, after that inspection was completed, what were you required to do then, or your company?—A. After the company was inspected the company was detailed then for guard. I first went on picket post and then was removed from there and put on the main guard.

Q. You went with Company B to relieve Company C?—A. Yes, sir.

Q. Company C had been on guard duty all night?—A. Yes, sir; Company C had been on guard duty all night.

Q. You went on post?—A. Yes, sir.

Q. They had cossack post?—A. Yes, sir.

Q. Did you keep up that arrangement of cossack post when you went on as their relief the next morning?—A. No, sir; I was relieved from cossack post and put on the main guard.

Q. I mean your company relieved C Company and took the place of it, wherever it had been—the company, I mean.—A. Yes, sir; yes, sir.

Q. Now, explain what happened to you.—A. After I was put on the cossack post the first sergeant sent around for me to report at the quarters and go on guard at the main post.

Q. Is that the post at the guardhouse?—A. Yes, sir; the post at the guardhouse.

Q. And you did that, did you?—A. Yes, sir.

Q. Then did you have to go through guard mount?—A. No, sir; we had no guard mount.

Q. You had no guard mount?—A. No, sir.

Q. State where you were posted and what happened, if anything, with respect to your gun that morning.—A. I don't understand—

Q. I say, state again what, if anything, happened with respect to your gun when you were ordered to go on this post guard duty.—A. At guard mount—I didn't attend the guard mount; we didn't have any; didn't attend any guard mount from the company. Just so many men were taken over under a noncommissioned officer and relieved the old guard that morning.

Q. Yes. What I am asking you to find out—I don't know anything about it—is whether when you went on guard duty there was another inspection of arms such as usually happens when men are put on guard duty?—A. Yes, sir; just before they are fixing to put you on post they inspect your guns.

Q. That is the inspection?—A. Yes, sir.

Q. You have guard mount every morning?—A. Yes, sir.

Q. In connection with the guard mount the guns are inspected?—A. Their guns—all the guns—but the guns were not inspected that morning for the main guard.

Q. For the main guard?—A. Yes, sir.

Q. Did you have any inspection of arms at all except that which you had with your company under Lieutenant Lawrason?—A. No more than by the corporal when he was fixing to put me on post.

Q. By the corporal when he put you on post?—A. Yes, sir; he never taken the gun; he just looked at it.

Q. The only inspection you had, then, was the one you have told us about, where Lieutenant Lawrason inspected you?—A. Yes, sir.

Q. How long did you remain on guard duty?—A. I stayed on guard twenty-four hours.

Q. That is to say, you were put on duty four hours with your relief and off duty four hours for a rest?—A. Yes, sir.

Q. Do you know where you were posted that day?—A. Yes, sir; on post No. 1, in front of the guardhouse.

Q. Now, Sergeant, did you ever fire your gun?—A. Yes, sir; I fired it during the target season.

Q. Where was the target practice you refer to?—A. At Fort Niobrara.

Q. Fort Niobrara?—A. Yes, sir.

Q. You were with Company B at Fort Niobrara?—A. Yes, sir.

Q. Were you with your company when these new guns were issued to the companies?—A. Yes, sir.

Q. And you got the new ammunition then?—A. Yes, sir.

Q. Do you remember about what time that was?—A. No, sir; I don't.

Q. About the middle of April, we have been told. That is in the record as an undisputed fact. Did you engage with your company at Fort Niobrara in target practice?—A. Yes, sir; I went through the whole practice.

Q. You went through the whole practice?—A. Yes, sir.

Q. Firing this gun from day to day there, as you were required to do?—A. Yes, sir.

Q. And you left Fort Niobrara for Brownsville with Company B, did you?—A. Yes, sir; I left Fort Niobrara for Brownsville with Company B.

Q. Now, state whether or not you at any time, after you left Fort Niobrara, fired this gun, prior to the time when the firing occurred

at Brownsville on the 13th of August, 1906?—A. No, sir; I never did fire it any more after I left Niobrara.

Q. State whether or not anybody else ever fired it, to your knowledge, after you left Fort Niobrara, prior to this firing.—A. No, sir; I never known of anyone firing it.

Q. What is that?—A. I never known anyone to fire it at all.

Q. You are Private Thomas Taylor?—A. Yes, sir.

Q. You were simply a private at this time?—A. Yes, sir.

Q. We are told by an official report that has been made and by other testimony in connection with it, that certain empty cartridge cases were picked up the morning after this firing in Brownsville, and that they have been subjected to an examination, with the result that it appears, according to the examiners, that 11 of these empty cases so picked up in Brownsville appear to have been fired out of your gun. Do you remember the number of the gun you had?—A. Yes, sir.

Q. What was the number of your gun?—A. The number of the last gun I had was 42288.

The CHAIRMAN. 42288?

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. That is the gun that is charged to you, and that is the gun that is referred to in this report. Now, if your gun was fired at Brownsville that night, it was not fired by you, as I understand you?—A. No, sir; my gun wasn't fired by me.

Q. Now, you found your gun in the rack in the morning locked up all right, and went immediately upon inspection with it, as I understand you, and it was inspected by your company commander and found to be clean. Have you any idea or any knowledge of any fact that would lead you to suspect that your gun was fired in Brownsville that night by anybody else?—A. Why, no sir; I don't think it was.

Q. Could it have been fired and cleaned and put back in that rack and then taken by you on inspection the next morning, and no sign of powder stain or anything else be exhibited by it?—A. No, sir; I don't think a gun could be fired at night and cleaned without a light and then be all right.

Q. You were in the Army seven years and more as you have stated?—A. Yes, sir.

Q. You have had experience in cleaning not only this gun, but also the Krag-Jørgensen gun. They are alike in some parts?—A. Yes, sir.

Q. You had to have a regular company inspection every Saturday morning, did you not?—A. Yes, sir.

Q. And you had to have a regular inspection of your gun, a rigid one, every time you were on guard, at guard mounting, so that you have had experience in cleaning these guns, have you?—A. Yes, sir; I have.

Q. How long does it take, according to your experience, to clean one of these guns?—A. It takes from twenty to thirty minutes, sir.

Q. That is your experience. Is that the experience of your comrades, according to your observation? Does it take them as long as it does you, as a rule?—A. Yes; I think it does.

Q. Can you clean one of these guns in the dark, in the night-time?—A. No, sir; I couldn't, and I don't think anyone else could.

Q. What would be the difficulty about cleaning one of these guns in the dark?—A. I don't think you could get the powder out. After cleaning a gun you have to look in it. That is, to keep it from rusting you have to run a rag in it, and look in it to see whether you have got it clean or not.

Q. Can you clean one of these guns except by saturating a rag with water or sal soda or something else and swabbing it out until you get it clean?—A. No, sir; I never have seen one cleaned except by using a rag. They have a gun brush.

Q. About that gun brush that we have heard of occasionally, did you ever try to clean your gun with it?—A. Yes, sir; I have.

Q. Could you clean your gun so that it would pass inspection with that after firing it?—A. No, sir.

Q. After using the wet rag you have to dry it?—A. Yes, sir; to dry it.

Q. How many times with wet rags would you have to swab it?—A. A dozen times sometimes, or more.

Q. And the same number of times with dry rags?—A. Yes, sir.

Q. After you got done cleaning out the bore of the rifle, what else was there to do to clean the gun for inspection after it had been fired?—A. After cleaning the barrel the bore had to be cleaned.

Q. Do you speak of the bore in distinction to the barrel?—A. Yes, sir; it is a little part right down at the end of the barrel. I have forgotten the name of it.

Q. That is the chamber.—A. No, sir; it is above the chamber. It has to be cleaned out thoroughly. The powder gets into it.

Q. You have to clean the chamber then, do you not?—A. Yes, sir.

Q. Are there or not crevices or depressions in there on account of the arrangement of the magazine of the gun that can not be reached except with difficulty?—A. I don't understand you, sir.

Q. I say are there or not places in the chamber of the gun that can not be reached except with difficulty, such as recesses and crevices that are made by the arrangement of the magazine of the gun?—A. No, sir; I don't think there is.

Q. I wish you would take that gun right behind you and open up the chamber and show us just what you have to do. [The witness took the gun out of the gun rack.] Open up that gun and show us what you have to do to thoroughly clean the chamber.—A. After firing the gun the powder and smoke goes up in there. To thoroughly clean the gun so that it will pass any kind of inspection, after firing the gun, after cleaning the barrel you have to get a stick and clean up in there and get the powder out of there [indicating].

Q. Could you do that in the dark at all?—A. No, sir.

Q. That is what I wanted to get at. That takes time, does it?—A. Yes, sir; it takes more time in here than it does in the barrel.

Q. And it requires light? You have to have light?—A. Yes, sir; it requires light.

Q. So that it could not have been done in the dark. Now, was there, so far as you know, any time after this firing commenced when your gun, if it had been used in that firing, could have been cleaned between the time of the firing and the time when you found it in the

gun rack in the morning all spick and span and all ready for inspection?—A. No, sir; I don't think there was.

Q. You could not have cleaned it when you were out behind the wall, could you, in the dark?—A. No, sir; it couldn't have been cleaned out there at all.

Q. It was a pretty dark night?—A. Yes, sir.

Q. Just one other question I will ask you before we adjourn. I am going to ask you a whole lot to-morrow, but just one other one before we adjourn. Did you have anything to do with the shooting up of Brownsville?—A. No, sir; I don't know anything of it at all.

Q. Do you know of anybody else in your company or any other company in your battalion who had anything to do with the shooting up of Brownsville?—A. No, sir; I never heard anything at all; never heard anything about who it was or who they thought it was.

Q. Have you kept any knowledge away from anyone that you had in regard to this matter—that is, have you refused to tell any officer or anybody all you knew about it?—A. No, sir; I have told every officer that asked me during the investigation. I have told them all I knew.

Q. You never kept anything back?—A. No, sir.

Q. You are not keeping anything back from us now?—A. No, sir.

Q. Now, if any of the shells that were fired were fired out of that gun, I understand you they must have been fired before you left Fort Niobrara?—A. They were fired before I left Fort Niobrara if they were fired out my gun at all.

Q. You did not fire any at all?—A. No, sir; I haven't fired my gun after I left Fort Niobrara and the time of turning it in.

Q. And when you found it in the rack in the morning it was just in the same condition as it was in when you put it in and all right?—A. Yes, sir.

Senator FORAKER. I will suspend here now. Here is a package of cartridges, as I understand. The package was handed me by Private Joseph J. Barnett. He said this package was handed him by Post Quartermaster-Sergeant Osborn, who testified before us a week ago, and said, among other things, that he had gathered up in the barracks after the Twenty-sixth Infantry left forty rounds of Krag-Jørgensen ammunition, which he had at his home in Fort Sam Houston, Tex., and I asked him, as members of the committee will remember, if he would send it to us as an exhibit.

Senator FOSTER. Did he not say that that was in a bandolier?

Senator FORAKER. No, sir. I have no suggestion to make about it now. I just want to mention it. I have not opened the package, and I do not know what condition it is in. We simply asked the man if he would send this to us. He said he would, and he has done so.

(At 4.20 o'clock p. m. the committee adjourned until to-morrow, March 26, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, March 26, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Warner, Pettus, Foster, and Frazier.

After twenty minutes spent in executive session the committee resumed the hearing.

TESTIMONY OF THOMAS TAYLOR (COLORED)—Continued.

THOMAS TAYLOR, colored, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. Do you recall about what place in the company you stood in line when it was formed that night after the firing—how near the right or left or center?—A. Yes, sir; I think I stood about No. 1 in the second squad.

Q. How many men would be to your right?—A. I stood the fifth man—four men I think were on my right.

Q. Were you in the rear rank?—A. No; I was in the front rank.

Q. With four men on your right?—A. Yes, sir.

Q. And then all the rest of the company to your left?—A. Yes, sir.

Q. You fell in in the order in which you came down out of the barracks, I suppose?—A. Yes, sir.

Q. Does that indicate that you were one of the first men to get into line?—A. Yes, sir.

Q. That only eight or nine men were ahead of you?—A. Yes, sir.

Q. Do you remember the roll being called?—A. Yes, sir; I do.

Q. You remember answering to your name?—A. Yes, sir.

Q. I think I asked you how you fell in, in what way, with your gun in what position, how you held it when you fell into the rank, and I think you said you had your gun at right shoulder.—A. No, sir; I had my piece at an order.

Senator WARNER. And then he said he came to the right shoulder, and then to an order.

By Senator FORAKER:

Q. What has your gun to do with the roll call? What position is it in?—A. At the time of the calling of the roll, at the time a man answers to his name, he brings his gun to an order.

Q. So that as you stand in line for the roll call you hold your gun at the right shoulder?—A. Whenever you fall in, you fall in at an order, and the first sergeant commands "Right shoulder arms," and then he calls the roll.

Q. Do you know Joseph L. Wilson?—A. Yes, sir.

Q. He belonged to Company B, did he?—A. Yes, sir.

Q. Did you see him there that night?—A. Yes, sir; when I first fell in Joseph L. Wilson was on my left.

Q. Immediately on your left?—A. Immediately on my left when I first fell in, but after I fell in, after the lieutenant counted the company off, then so many men fell out to get more ammunition,

and whether Wilson fell out or remained on my left I am not positive about it.

Q. He fell out from your side. Do you know what became of him?—A. I think he went on in the last squad after he fell back in. I think he fell back in the last squad of the company.

Q. But you distinctly remember seeing him, do you?—A. I remember Wilson forming on my left.

Q. Did you see Ernest English that night?—A. No, sir; I don't remember seeing Ernest English, but I remember hearing him answer to his name at roll call, and I remember seeing him after I fell in line at the rear of the quarters.

Q. Did you listen as the roll was called to see whether anybody there was missing?—A. Yes, sir.

Q. Was anybody missing so far as you know who was not accounted for?—A. No, sir; every man that was not there was accounted for.

Senator FORAKER. You may cross-examine.

By Senator WARNER:

Q. You gave more than ordinary attention to the roll call that night?—A. Yes, sir.

Q. Why?—A. Because the firing was going on at the time and I did not know who was out, and naturally I paid more attention to it at that time than at another time.

Q. You did not know who was out?—A. No, sir.

Q. That is, you did not know what soldiers might be out?—A. No, sir.

Q. What made you think some of the soldiers might be out in the firing?—A. I did not know who was firing at the time.

Q. Who stood next to Joseph Wilson in line?—A. I don't know, sir; on his left I could not tell who stood next to him.

Q. Who stood next to you on the right?—A. Holloman stood on my right.

Q. He was the man interested in the saloon?—A. I don't know whether he was interested in the saloon or not.

Q. You knew of it, didn't you, by report?—A. I heard of it; yes, sir.

Q. And who was next on his right?—A. I don't know, sir, who was next on Holloman's right, sir.

Q. You can tell each man that answered to his name?—A. Why, yes; I think I can—yes, sir; I can.

Q. What makes you remember that you heard Ernest English answer to his name?—A. What makes me remember it? Any time a man answers to his name he answers "Here" when the first sergeant calls his name.

Q. I know, but what made you pay attention to him especially?—A. I did not pay special attention to English. I paid special attention to the whole company.

Q. Who else did you hear answer to his name?—A. I heard the whole company.

Q. Can you name another one?—A. Yes, sir.

Q. And you were paying special attention because you did not know who might be out?—A. Yes, sir.

Q. You knew that the order had been issued the night before

that all men should be in the barracks by 8 o'clock, didn't you?—A. Yes, sir; I did.

Q. You knew the cause of that order, didn't you?—A. No, sir; I did not know the cause of it.

Q. But that was unusual?—A. Yes, sir; it was unusual.

Q. You had heard at that time of this assault, whatever it was, on Mrs. Evans?—A. No, sir; I had not heard any official report of it at all.

Q. But you had seen it in the papers, hadn't you?—A. No, sir; I had not seen anything in the paper concerning it.

Q. You had heard of it?—A. I had heard some speaking of the reason why the order was issued, but I never heard it from an officer or a noncommissioned officer.

Q. But you heard it?—A. Yes, sir.

Q. From whom did you hear it?—A. I heard the soldiers talking about it, but it was not said what woman it was that had been attempted, or that it was said had been attempted.

Q. Of course you did not know anything, and I do not say it is so, but that was the report?—A. Yes, sir; I heard, but it was not officially that I heard it.

Q. You were asleep when the firing commenced?—A. Yes, sir.

Q. Where was the first firing you heard?—A. The first firing that I heard sounded like it was in town.

Q. Well, that is a little indefinite.—A. Sir?

Q. What part of the town?—A. I could not exactly tell what part of the town it was in, for after the firing was going on then the noise began in the quarters, and I could not tell what part of the town exactly the firing was in.

Q. Was it near the barracks?—A. No, sir; it did not sound like it was near the barracks until afterwards. After I fell out in front of the company it sounded like the firing was near the barracks, about 500 or 600 yards.

Q. That is, when it was getting nearer the barracks it seemed within 500 or 600 yards?—A. Yes, sir.

Senator SCOTT. Do you want me to explain this map to the witness?

Senator WARNER. Yes; I wish you would.

(Senator Scott explained to the witness the location of the various streets and buildings on the map.)

Q. Do you get an idea of the grounds?—A. Yes, sir; I have an idea of the grounds.

By Senator WARNER:

Q. You understand the map generally, now, Mr. Taylor?—A. Yes, sir.

Q. Now, before this shooting that you heard, that you place 500 or 600 yards off, how much farther off did the shooting seem to be?—A. Well, sir, I don't know. I could not pay much attention to the first shooting at least, there was so much noise; I could not tell exactly where it was, to say how far it was off.

Q. I know, but the noise commenced by the men getting up and hunting up their guns.—A. The men was falling out with their guns during the time the shooting was going on, and I was just waked up out of a slumber.

Q. The men were getting their guns when you waked up?—A. Yes, sir.

Q. And they were making a noise getting their guns, then?—A. Yes, sir.

Q. Then you did not hear the call to arms?—A. Yes, sir; the call to arms was going all the time the firing was going on. Part of the time the firing was going on rapidly.

Q. Did you hear the call to arms after you waked up?—A. Yes, sir. The call to arms was going on at the time they were firing.

Q. And the call to arms was going on when the men were there getting their guns?—A. Yes, sir.

Q. Then there were quite a number up, making a noise getting their guns, before you got up?—A. I don't know, sir, about the noise they made before I got up, but I know there was quite a number of them up when I got up.

Q. You got up and dressed?—A. Yes, sir; I partly dressed.

Q. Well, you put on your trousers and your shoes and what else?—A. My trousers, shoes, and hat.

Q. And got your gun?—A. Yes, sir.

Q. Was any of that shooting as near the barracks as the garrison road?—A. Why, I don't know, sir, how near it was. From what I could learn of the shooting, there was shooting before I waked up, and I could not tell where they were at. In fact, I don't know where they were at after I woke up.

Q. You would not attempt to locate it?—A. No, sir; I could not.

Q. Do you know where that alley is there, looking at the map?—A. Yes, sir; I know where the alley is, sir.

Q. What alley are you speaking of?—A. Speaking of the alley, I think, that led right in the rear of B Company's quarters.

Q. Where was the shooting with reference to that alley?—A. I don't know, sir; I can't tell.

Q. You know where the telegraph office was, there at the corner of Elizabeth street and the garrison road?—A. Yes, sir.

Q. Where was it with reference to that?—A. I could not tell exactly about where it was in reference to that, sir.

Q. Do you know where the Cowen house was, marked "2" on that map, there at the corner of the alley between Elizabeth street and Fourteenth street?

Senator SCOTT (referring to the map). There is the gate and there is the Cowen house and there is the telegraph office.

By Senator WARNER:

Q. You knew where the Cowen house was?—A. No, sir. Probably I seen the house, but I did not know anything about what was the name of it.

Q. Did you hear any shouting?—A. Shouting; no, sir; I did not.

Q. Did you hear any noise at all?—A. No, sir; I heard no noise at all.

Q. Did you hear any gun fired inside the grounds of the fort?—A. Of the fort; no, sir; I did not.

Q. This gun of yours was in the gun rack when you got up?—A. Yes, sir.

Q. And you don't know whether you got your gun or not?—A. I

don't know whether I got my gun or not that night, but I do know that I got my gun and attended inspection with it the next morning.

Q. I am asking you about that night. We will get to the inspection in a few minutes. In the confusion you might have gotten and likely did get somebody's else gun and somebody else had your gun?—A. Yes, sir; it might have been that I got some one's else gun that night.

Q. And when you got to the gun rack it was unlocked?—A. Yes, sir; the gun rack was unlocked.

Q. When was it unlocked?—A. It was unlocked the time that I was putting on my shoes.

Q. You do not know of your own knowledge?—A. Yes, sir; I know that of my own knowledge. Sergeant Jackson was unlocking the gun rack when I was putting on my shoes.

Q. You could see him?—A. Yes, sir; I could see him.

Q. Who else did you see there?—A. I saw the cook and English and Roberts.

Q. Anyone else?—A. No, sir; I can't call any other names, but those I can call. I remember seeing those men.

Q. Those are the only ones?—A. Yes, sir; that were around the rack, that I remember seeing.

Q. And the firing was still going on?—A. Yes, sir.

Q. Did each man have a number in the gun rack for his gun?—A. Yes, sir.

Q. And the gun racks were numbered 1, 2, 3, and 4, were they?—A. I am not positive about that. I think the gun racks were not marked 1, 2, 3, and 4. They were marked first, second, third, and fourth sections.

Q. So that you recognized them?—A. Yes, sir.

Q. And your gun was in the first section?—A. Yes, sir.

Q. And would the numbers in that section run through? How would the numbers run?—A. Well, the number on the rack was your company number. My company number was 58. Some man had No. 1, I am sure, a place in the rack, where they put their gun in the rack, numbered 1.

Q. What do you mean by your company number being 58?—A. That is the number that soldiers have, the company number, which is on the haversack and canteen. Mine was marked 58. That is generally called a man's company number, and the company number is placed on the gun rack. That is the place where he puts his gun.

Q. And that number is placed in full view, is it?—A. Sir?

Q. That number is marked on the gun rack?—A. Yes, sir.

Q. How marked?—A. By a small brass stencil of some kind. I don't know how, but it is marked on the bottom of the gun rack.

Q. Just please show us on that gun rack where the numbers are marked.—A. There is a number marked here [indicating].

Q. On the iron band that goes round the bottom of the gun rack?—A. No, sir; it is marked on the wood. I don't remember seeing an iron band like that, but I remember seeing wooden ones. The ones we had was wooden. It was marked on there with white.

Q. It is marked on one of these wooden pieces?—A. It is marked down below.

Q. Your number is marked here on the wood, below the iron band?—A. Yes, sir.

- Q. Then it is down within a few inches of the floor?—A. Yes, sir.
- Q. That is marked there with a stencil, you say?—A. Yes, sir.
- Q. You never fired your gun while at Fort Brown?—A. No, sir.
- Q. Where did the soldiers keep their extra ammunition?—A. The soldiers did not keep any extra ammunition, sir, as I know of; at least, I didn't.
- Q. None whatever?—A. None whatever, sir.
- Q. Could you get extra ammunition?—A. No, sir; they could not get any as I know of; no, sir.
- Q. You have been a soldier how long?—A. I have been a soldier for seven years and a few months and days.
- Q. Didn't you see any extra ammunition lying round there when you came into the barracks?—A. No, sir.
- Q. You were in B barracks?—A. Yes, sir; I was in B Company's barracks.
- Q. If there had been any extra ammunition lying around there, you would have seen it?—A. I don't know, sir; probably I would; I could not say whether I would or not, sir.
- Q. Did you have extra ammunition when you had Krag guns?—A. No, sir.
- Q. The same rule prevailed then that prevailed when you had the Springfield?—A. Yes, sir.
- Q. Has your service all been in the Twenty-fifth?—A. No, sir; I served one year and nine months and twelve days in the volunteers. The rest of my service was in B Company, Twenty-fifth Infantry.
- Q. All of your regular service has been in the Twenty-fifth?—A. Yes, sir.
- Q. You learned the next morning or that night that it was charged that the soldiers had done the shooting up of the town, didn't you?—A. No, sir; I did not.
- Q. When did you learn that?—A. I never learned it until afterwards. Major Blocksom I think was the inspector who came there, I think it was the third or second day, to investigate, and I heard some noncommissioned officer say that Major Blocksom had said that he believed the soldiers did it.
- Q. And you never heard it discussed before that time among the soldiers at all?—A. I had heard them talking about it, wondering what was the cause of them firing on the post.
- Q. Whom did you hear say this?—A. Well, I can't remember no particular soldier, but it was talked about all over the quarters.
- Q. Did you hear any noncommissioned officers say it?—A. No, sir; I would not say that, I don't remember hearing any noncommissioned officer. I just remember hearing soldiers speak of it. Whether there was a noncommissioned officer or not I could not say.
- Q. What was said?—A. They were wondering why did they fire on the post.
- Q. Did they say they had fired on the post?—A. Yes, sir; from the way that we understood, from some one of the hospitals, they remembered hearing bullets go over the hospital.
- Q. Did you go and look to see if you could find any sign of any bullet marks?—A. No, sir; I never had that time, sir.
- Q. Why were you so busy?—A. I was on duty all the time after the firing until we left.

Q. On what kind of duty?—A. Guard duty.

Q. Every day?—A. No, sir; not guard duty every day, but the day I came off guard I would come on fatigue in the afternoon.

Q. You would have the forenoon then to yourself?—A. Yes, sir; but naturally I would get to sleep in the forenoon.

Q. And then you would be on fatigue duty?—A. Yes, sir.

Q. So you never had time to look?—A. No, sir.

Q. Did you make any inquiries about it at all?—A. Why, no, sir; I did not.

Q. Whom did you hear say that they heard bullets fired and going over the hospital?—A. Why, privates Harden and Bailey.

Q. Did you talk with any noncommissioned officer about that?—A. No, sir; I did not.

Q. Did you ever tell anybody before that you had heard this?—A. Why, no, sir. They was not telling me privately; they were just talking about the firing—about what time it aroused them up, and what time they heard the bullets go over the hospital.

Q. That was to show that the soldiers did not do the shooting?—A. I don't know whether it was to show that the soldiers did not do it or not.

Q. Did you know of any feeling on the part of the soldiers there?—A. No, sir; I did not.

Q. Or on the part of the citizens?—A. No, sir; I did not.

Q. You were treated well there, were you?—A. Yes, sir; for I never went out amongst them.

Q. You mean you did not associate with them?—A. No, sir.

Q. You went out in town?—A. Well, very little.

Q. Did you ever go over to Matamoros?—A. No, sir.

Q. You have been down in the town?—A. Yes, sir; I have been down in a portion of the town, a very small portion of it.

Q. How often?—A. I think I was down in the city once while I was there.

Q. But as far as you were concerned you were treated all right?—A. Why, yes.

Q. Did you hear any complaint upon the part of other soldiers of their treatment there?—A. No, sir; I did not.

Q. Never heard anything of it?—A. Never heard anything; did not hear anybody complain that they were not getting proper treatment.

Q. Pretty well pleased with being stationed at Brownsville?—A. I don't know about that, or how other soldiers felt, but I know I felt pretty well pleased about it.

Q. As far as you could find out they were well pleased at being stationed there?—A. I did not try to find out how they felt toward the citizens of Brownsville, for when I was off duty I was generally reading, or something like that.

Q. But as far as you know they seemed to be well pleased with being at Brownsville?—A. Yes, sir; they acted that way as far as I know.

Q. Acted that way?—A. Yes, sir.

Q. And you know that you were?—A. Yes, sir; I was well pleased at being there.

Q. Had you ever been in Texas before?—A. No, sir.

Q. You were not with a part of the Twenty-fifth when it was at El Paso?—A. No, sir; I was not with that command.

Q. You knew Private Newton?—A. Yes, sir.

Q. Did you know of a difficulty he got into?—A. I heard of some that he got into; yes, sir.

Q. Did not pay any attention to that?—A. Well; no, sir; any more than I remember after Newton got into the trouble, that the commanding officer issued an order to the company that if any men got into any disturbance among the citizens there, not to raise any disturbance, but come back and report it at once, and he would take steps about it.

Q. You knew that Newton was regarded as being rather quarrelsome when he got drunk, didn't you?—A. No, sir; I did not.

Q. You did not know anything about it?—A. Yes, sir; I knew Newton, but I did not know anything about his being disorderly when he got drunk.

Q. Did you hear soldiers talk about not being permitted to drink at the bars?—A. No, sir; I did not.

Q. Never heard that commented on at all?—A. No, sir; for after we got to Texas there was a saloon put up.

Q. How soon was that saloon put up?—A. I think it was put up in about six or eight days after we got there. I think it was put up in that time—six or eight days after we got in Texas.

Q. That was the saloon where Allison tended the bar?—A. Yes, sir.

Q. Were you ever there?—A. Yes, sir; I was.

Q. Often?—A. Well, no, sir.

Q. Up there quite frequently—and how far would that be from the gate?

Senator FORAKER. Does he say he was up there frequently? I did not understand him to say that.

A. No, sir; I was not.

Senator FORAKER. He says he was not, and your question implied that he had answered differently.

Senator WARNER. The record will show.

Senator FORAKER. Let the question and answer be read.

The official reporter read as follows:

Q. Were you ever there?—A. Yes, sir; I was.

Q. Often?—A. Well, no, sir.

Q. Up there quite frequently—and how far would that be from the gate?

Senator FORAKER. The witness replied just the opposite of what was implied in the last question. I submit it is not fair to the witness.

Senator WARNER. That remark has been made two or three times.

Senator FORAKER. No; I have not made it before.

Senator WARNER. Two or three times during this examination.

Senator FORAKER. The record will show whether it has or not.

Senator WARNER. And the record will show whether I am fair in my examination. I have tried to be, and I will not submit to these remarks unless they are justified.

Senator FORAKER. I submit that they are justified; and as far as I am concerned they will stay in the record.

Senator WARNER. And as far as I am concerned, they will stay in the record.

The CHAIRMAN. And the witness will answer.

Senator FORAKER. Certainly, he will answer; but I will see that words are not put into his mouth that he has not uttered.

The CHAIRMAN. The attorney on cross-examination will be allowed the same privileges as the attorney on direct examination.

Senator FORAKER. Certainly, he will be allowed the same privileges.

Senator WARNER. I submit the record as proof of the absolute fairness of my examination of these witnesses. I am willing that it shall be compared with the examination conducted by any other Senator.

Senator FORAKER. Mr. Chairman, the Senator from Missouri will admit, I think, that I have interrupted very seldom in the course of his examination, and I do not remember any other time when I have made the character of interruption which I have made now; but certainly when the question was read that the Senator put to the witness, it was made manifest that I was justified in calling his attention to the fact. That is all I did; and I did it in a very polite way, I think. I intended, at any rate, to call his attention to the fact that the witness had not said that—at least I had not so understood him.

The CHAIRMAN. Gentlemen of the committee, let me say that in the examination of witnesses by the Senator from Ohio a good many questions of a leading character have been asked that possibly would not have been allowed in court, and perhaps ought not to be allowed in committee, but I have felt that no harm was done. Other leading questions probably have been asked by other Senators. Now, if we are to proceed as we have been proceeding, in rather a generous way, and allowing some latitude in this regard, I see no reason why we should object to such a question as that propounded by the Senator from Missouri. If the line is to be drawn closely, we must draw it, of course, as to all.

Senator FORAKER. The objection I make is not that this question was leading. He has a perfect right to ask leading questions on cross-examination, and we are not subject to the rules of evidence that are applied in court. In the committee we all ask leading questions for the purpose of developing the facts, a purpose which I am sure is approved by every member of the committee; but you will search the record in vain for an instance in which I have knowingly put into the mouth of any witness a statement that he had not made, and I am sure you might search the record without finding any case where Senator Warner had knowingly done any such thing, for he would not do it. I merely called his attention to the fact that I had understood the witness differently than he had; that is all.

The CHAIRMAN. Well, gentlemen, proceed.

By Senator WARNER:

Q. How often were you there in his saloon?—A. Why, I don't know. I was not there, I don't think, over once or twice.

Q. During the entire time?—A. Yes, sir.

Q. When was pay day?—A. I don't remember, but as near as I can remember I think pay day was on the 9th, sir.

Q. On Saturday?—A. Yes, sir; I think it was.

Q. And this shooting up, by whomsoever it was done, occurred on Monday night?—A. Yes, sir.

Q. Do you know whether the members of your command did much drinking or not?—A. I don't know anything about that, sir.

Q. Nothing about it whatever?—A. No, sir.

Q. Now, your gun was not fired by you, as you have stated, after you left Fort Niobrara?—A. No, sir.

Q. That gun had been inspected how many times?—A. I don't know, sir, how many times it had been inspected.

Q. It was inspected before you left Fort Niobrara?—A. Yes, sir; it was inspected before I left Fort Niobrara, and when I went on guard it was inspected, and also on Saturday mornings it was inspected by the company commander.

Q. Inspected several times?—A. Yes, sir.

Q. So if the gun showed evidence of being fired and being foul, if that was its condition, it had been fired after you left Fort Niobrara?—A. No, sir; I don't think my gun had been fired after I left Fort Niobrara, because I am sure in the daytime it was in my possession and at night I put it in the gun rack.

By Senator FOSTER:

Q. What do you mean by saying that in the daytime it was in your possession?—A. In the day when I was drilling the gun was in my possession, and I generally cleaned it up every day, and I know that after drill I generally cleaned up my gun, put in part of the day on my gun in the afternoon cleaning it up.

By Senator WARNER:

Q. In cleaning the barrel?—A. In cleaning the barrel and cleaning the gun all over.

Q. Every afternoon?—A. Yes, sir.

Q. Did you clean it in the afternoon of the 14th of August?—A. The 14th of August; no, sir; I did not, for I were on duty.

Q. Did you clean it any time after the night of the 13th of August?—A. No, sir; I don't think I did, for I was busy; just oiled it, kept it oiled well, for I was busy on duty. If I was not on guard I would be on fatigue.

Q. But before that you had cleaned it every afternoon?—A. Yes, sir.

Q. That was customary with the soldiers, was it?—A. Not with all of them; with some of them it was, sir.

Q. Can you name any other soldier who cleaned his gun every afternoon—got it out of the gun rack?—A. I won't say every afternoon, but I know some that cleaned their guns; most all the soldiers cleaned their guns after drill mornings; that is, those that cared anything for their guns; if they did not work on them with a rag, they would oil them up.

Q. That is the barrel—the inside of the barrel?—A. Yes, sir.

Q. And the wood and all?—A. Yes, sir.

Q. What would you use for doing that?—A. I would use oil, sir.

Q. And would you use the rod or the thong brush?—A. I used the rod, sir.

Q. Every time?—A. Yes, sir.

Q. Was that your habit at Fort Niobrara?—A. Yes, sir.

Q. So then the gun was clean when you put it in the rack on the 13th of August?—A. Yes, sir.

Q. And if foul, it had become so after you put it in the rack?—A. Yes, sir.

Q. No doubt about that?—A. Why, yes; I doubt it.

Q. Now, was the shooting still going on when you fell in with the company?—A. Yes, sir.

Q. Did Sergeant Sanders have a light there?—A. Yes, sir; Sergeant Sanders had a light burning, and I remember saying something to him, and also Private Holloman making remarks about the light.

Q. About the danger of having it?—A. Yes, sir.

Q. Did the shooting continue until you went around to the wall?—A. No, sir; the shooting ceased before we got around to the wall.

Q. That was a dark night, was it not?—A. I am not positive whether it was a dark night or not, sir.

Q. Do you know the character of the night, whether it was moonlight or not?—A. No, sir; I don't think it was a moonlight night, but I don't know whether—I don't think it was dark—what I mean—

Q. What do you say?—A. I don't think it was a moonlight night, but I don't remember whether it was a real dark night or not.

Q. You could not see the left of your company where you were?—

A. I could see the left of them at the time I first fell in.

Q. After you fell in, and there were only four men to your right?—A. Yes, sir.

Q. How many men were there in your company?—A. I don't know, sir; I think it was 52 men present or something like that.

Q. How many men answered to the roll call?—A. I don't know, sir, how many men answered to the roll call; I think it was along in the forties somewhere, answered to the roll call. I am not positive how many answered to the roll call.

Q. But when you were standing in the ranks, after you fell in, you could not see the left of your company?—A. I could see by looking down there, but when a soldier falls in he is not allowed to look to the right or left.

Q. He would look to the front?—A. Yes, sir; after he comes to right shoulder arms, after he is called to attention.

Q. So you could not tell who if anyone fell in after you fell into the ranks?—A. No more than by hearing them answer to their names and coming to an order.

Q. But you could not tell where they fell in or how they fell in?—

A. Before that time I could tell, but after I fell in and was called to attention I could not tell who fell in on my left. I know that nobody fell in on my right. If a man was late falling in, they generally fell in on the right.

Q. How is that?—A. I say if a man is late about falling in line, coming to roll call, no one falls in on the right. If any fell in they fell in on the left.

Q. I understood you to say they fell in on the right. I thought that was a mistake.—A. No, sir.

Q. They fell in naturally on the left?—A. Yes, sir; if there was any fell in after I fell in, sir.

Q. So if these men came in, any that fell in afterwards, they would fall in on the left in regular order?—A. If any had come in, they would have fallen in on the left, but I don't remember hearing any of them running and getting into line.

Q. And you can not tell where that shooting was from?—A. No, sir; I could not.

Q. Could you tell the nature of the shooting?—A. Well, no, sir; I could not tell the nature of it.

Q. Nothing about that?—A. Nothing about that at all; no, sir.

Q. About how many shots did you hear?—A. Well, I have no idea, sir, how many shots I did hear, for some of the shots were fired together—something like a volley—so I could not say how many shots I did hear.

Q. How many volleys did you hear?—A. Well, I don't remember. The shots were not fired in volleys, sir. They were fired something like a volley.

Q. Well, how many something like a volley did you hear?—A. I could not say, sir, how many I did hear. I could not take the time to count or see anything like that. I was confused in falling in, and so forth.

Q. You can give us no idea of the number of shots you heard?—A. It seems to me, as near as I can come at it, I think I heard over 50 shots, I am sure, but how many I would not say.

Q. When you say something like volleys, what do you mean by that?—A. Why, volleys is something that is fired together, and these shots were fired pretty much together. At the time when they were firing they fired them pretty much together.

Q. You have been a soldier long enough to know what a volley is?—A. Yes, sir.

Q. You heard no command, you heard no one speak outside the barracks—that is, outside the grounds—or toward the garrison road, or out in that direction?—A. I heard no one at all speak.

Q. And the nearest point, as far as you can judge—the nearest to the barracks where you heard shooting—was what distance?—A. Why, it seems to me like it was four or five hundred yards; I could not say. Probably it might have been nearer or it might have been farther; I don't know.

Q. But that was your judgment?—A. Yes, sir; as near as I can judge it, it was about that far.

Q. Did it seem possible to you that they were firing upon the fort or attacking the fort, if they were four or five hundred yards away?—A. Why, yes, sir.

Q. Did you hear any bullets?—A. No, sir; I heard no bullets at all.

Q. Do you know in what direction the firing was, whether it was toward the fort or from the fort?—A. No, sir; I could not tell whether it was toward the fort or from it.

Q. Before hearing this firing within five or six, or four or five hundred yards of the fort, I think you said, the first firing you heard was how far away?—A. I have no idea, sir; how far it was.

Q. That was still farther away?—A. I don't know, sir. After I fell out I realized more about the firing than I did at first. When I first heard the firing I paid no attention to it, there being so much noise. The first thing I did was to get dressed and fall out.

Q. Who kept the keys of the gun rack?—A. The noncommissioned officer in charge of quarters.

Q. Where did he keep them?—A. I don't know where he kept them, but they were in his possession. What place he kept them at I don't know, sir.

Q. Never heard it stated?—A. Why, no, sir; I never heard it stated anything about where he kept them.

Q. Did you ever hear him state since where he kept the keys?—A. No, sir; I have not.

Q. Did you ever make any inquiries of the noncommissioned officer since leaving Fort Brown?—A. The shooting occurred on the 13th, and I think he was confined on the 15th, and so I have not seen him since.

Q. So you have had no talk with him about it?—A. No, sir; no talk whatever.

Senator FORAKER. The record shows he was confined on the 25th instead of the 15th.

A. The 25th?

Q. Yes; you refer to Sergt. George Jackson, do you not?—A. Yes, sir.

Q. No; he was confined on the 23d.—A. I am not positive what date he was confined, but I know he was confined before we left Fort Brown, sir. I was on guard. He was confined before we left Fort Brown. What day it was I don't know.

Q. You left on the 25th and he was arrested a day or two before.

By Senator FOSTER:

Q. Was there any extra ammunition distributed that night?—A. After the firing they issued so many rounds of ammunition, and the next morning that ammunition was all turned in.

Q. Extra ammunition, then, was distributed that night?—A. Yes, sir.

Q. Was it before or after roll call?—A. It was away after roll call, after we fell in and was fixing to march around and fall in in the rear of the walls.

Q. It was distributed, then, just before you formed in line in the rear of your barracks?—A. Yes, sir.

Senator FORAKER. In front of the barracks?—A. No, sir; not in front of the barracks; in the rear of the barracks.

By Senator FOSTER:

Q. They were formed in the rear of the barracks. Did you receive any extra ammunition?—A. Yes, sir.

Q. How many rounds did you receive?—A. I received 10 rounds from Sergeant McCurdy and 10 from Private Holloman.

Q. So you received 20 rounds of extra ammunition that night?—A. Yes, sir.

Q. How many rounds of ammunition did you have with you when you went down and formed?—A. I had 20 rounds, sir.

Q. Where were those rounds?—A. They were in my belt.

Q. Did you have your belt on?—A. Yes, sir.

Q. What did you need with 20 additional rounds if you had 21 in your belt?—A. I did not know how long the firing was going to be, or how long I would be out without ammunition.

Q. How were the soldiers' barracks arranged? Do they all sleep in one large room, or are there different rooms in each barracks?—A. Why, some barracks are different from others, sir.

Q. In Company B how were they?—A. In Company B's barracks all of the privates slept—not all of them there, for there was a good many men on other duties, such as extra and special duties, and a good many of them stayed at the corral, and many of them stayed at the officers' quarters where they worked, and some of them stayed in their quarters off from the soldiers' barracks, and some of them stayed in their rooms—had private rooms to themselves.

Q. Some of the noncommissioned officers or some of the privates?—A. The noncommissioned officers—the noncommissioned officers and privates that had quarters near the officers' quarters.

Q. In barracks B did all the private soldiers live in one big room, or did they sleep in different rooms?—A. No, sir; all of them wasn't in the company; some was working for officers and some were on other duties.

Q. All that slept there at all—did they sleep in one room?—A. Yes, sir.

Q. Or have different rooms assigned them?—A. No, sir; they had one long room.

Q. Was there a light burning in the barracks that night after taps?—A. After taps, no, sir; the light went out at 9 o'clock.

Q. What time did you go to bed?—A. I went to bed before 11. I don't know what time, but I don't remember hearing check. and check goes at 11 o'clock.

Q. And the lights were put out in your barracks the night of the 13th?—A. Yes, sir; the lights were put out at 9 o'clock.

Q. When were the lamps, or whatever you may have had there, lighted again?—A. It is lit the next morning at reveille.

Q. What time do you have reveille?—A. I have forgotten what time reveille went in Texas, but I think it went at 6.15. I am not positive what time first call went.

Q. What lights, if any, were burning in these barracks that night when you were aroused by the reports of these guns?—A. I never remember seeing but one light, and that was in the hands of the noncommissioned officer in charge of quarters.

Q. What is that?—A. The noncommissioned officer in charge of quarters had one light, a candle.

Q. Where was that?—A. He was all over the barracks until he unlocked the gun racks, and then after that I remember seeing him down on the porch.

Q. Were you in the barracks, upstairs or downstairs?—A. I was upstairs, sir.

Q. And you saw this noncommissioned officer with the light upstairs?—A. Yes, sir.

Q. Moving around generally among the men?—A. He wasn't moving around generally; he was moving around in a hurry, sir, and opening racks.

Q. Did you see him when he opened the racks?—A. I didn't pay any attention to see whether he opened the racks, but when I saw him he had opened one rack. I didn't pay any attention to see whether he opened the racks, but all I did was to get my gun and fall out.

Q. Your gun was in rack No. 1?—A. First section gun rack; yes, sir; first section.

Q. Were you among the first or the last who got to the gun racks?—A. I was among the first that got to the gun racks.

Q. You saw quite a number of men there getting their guns, did you?—A. Yes, sir.

Q. When you reached the gun racks?—A. Yes, sir.

Q. Could you distinguish them in the dark?—A. Why, I might; I could distinguish some of them by the light; some of them I can remember distinguishing being there.

Q. The officer, then, was at the rack with the light when you got there?—A. The noncommissioned officer had just left the racks when I got up to get my gun.

Q. That is what I understood you to say, that the noncommissioned officer had left the gun racks with the light when you got up to get the gun; that is right, is it?—A. Yes, sir.

Q. How did you distinguish these men at the racks if the light was not there?—A. I could distinguish by the candlelight. When I got up to get my gun he wasn't any farther from the rack than from here to the wall over there [indicating].

Senator SCOTT. You mean you got "a" gun. You always say "my gun." You testified yesterday you got "a" gun.

The WITNESS. Yes, sir; that is what I mean.

Senator FOSTER. I understand that.

Senator SCOTT. He said yesterday he got "a" gun.

By Senator FOSTER:

Q. I understood he got a gun. Now, did you go to your rack that night to get your regular gun?—A. Yes, sir; I went to the regular rack that I kept my gun in.

Q. And you did not find it there?—A. I don't know whether I found it there or not. I found a gun there.

Q. The first gun you could get you took out of the rack?—A. Yes, sir.

Q. Then when did you get your gun out of the rack again—your regular gun?—A. I got my gun out of the rack the next morning again at drill call.

Q. Did you find it in the rack where you usually kept it?—A. I didn't pay any attention. I found it in the rack, but for the number, I didn't pay any attention whether I found it in that number or not.

Q. But you found it in the rack where you usually kept it, in the first section?—A. Yes, sir.

Q. Now, the last time you had seen that gun, your regular gun, was on what day?—A. It was on Monday.

Q. On Monday?—A. Yes, sir.

Q. The shooting was on Monday, the night of the 13th?—A. Yes, sir.

Q. And you had your regular gun on that day?—A. Yes, sir.

Q. Did you have it at drill?—A. No, sir; there wasn't any drill. The company went on practice march, but I was sick and got excused by Lieutenant Lawrason.

Q. What became of your gun?—A. I put it back in the rack, sir.

Q. When did you clean your gun last?—A. I cleaned my gun last on a Saturday.

Q. Before or after the inspection?—A. Saturday, before the inspection of the 13th.

Q. You cleaned it the Saturday before the inspection?—A. Of the 13th; yes, sir—of the 14th.

Q. No; Saturday was the 11th, was it not?

Senator FORAKER. Saturday was the 11th.

The WITNESS. It was before the inspection of the 14th—we had another inspection—after the firing we had another inspection.

Q. You had Saturday inspection?—A. Yes, sir.

Q. When did you clean your gun for the Saturday inspection?—A. Saturday morning, sir, and Friday afternoon, together.

Q. Then did you clean your gun after that?—A. No, sir.

Q. Did you take your gun immediately from inspection and put it in the locker or rack?—A. Yes, sir; immediately after inspection—after I was dismissed—I put my gun in the rack.

Q. And then you never saw it any more until the morning of the 14th?—A. I seen it—

Q. Then on the morning of the 14th—A. On the morning of Monday, the 13th.

Q. Yes; Monday was the 13th.—A. Yes, sir.

Q. Then did you take your gun after you were excused from the march and place it back in the rack?—A. Yes, sir.

Q. Were any other guns in there at that time?—A. I don't think there was, sir; I am not positive about that. I was sick, and I don't remember looking to see whose guns were in there after I got excused to fall out, not to go on the practice march.

Q. You say you had your gun frequently in the afternoons to clean it, did you not?—A. I did; yes, sir.

Q. What was the last afternoon you had your gun?—A. Friday afternoon, sir.

Q. Friday afternoon?—A. Yes, sir.

Q. Where did you get your gun then?—A. From the gun rack, sir.

Q. Can a soldier go to the gun rack and get his gun at any time?—

A. He can get permission from the noncommissioned officer in charge of quarters to get his gun out and clean it.

Q. So that when you wished to get your gun out you had to get permission of a commissioned officer?—A. A noncommissioned officer.

Q. A noncommissioned officer?—A. Yes, sir; a noncommissioned officer.

Q. And were the racks kept locked all the time?—A. The racks were kept locked at all times, sir.

Q. And then, if I understand you, if you or any other soldier wished to get your gun out for the purpose of cleaning it, you went to the noncommissioned officer and he would give it to you?—A. Yes, sir.

Q. Had you made that request often, and had it been granted?—A. Yes, sir; every time I asked for it I would take it out and clean it for a half an hour, or probably longer, sir.

Q. Was that the common practice among the men of your battalion or company, to get their guns in the afternoon and clean them?—A. Those that wanted to keep their guns clean; when they got ready

to clean them, if they didn't clean them right after drill they generally got permission to clean them in the afternoon.

Q. When you say they got permission, whom did they get permission from?—A. From the noncommissioned officer in charge of quarters, sir.

Q. After you put your gun in the rack on the morning of Monday, the 13th, then you did not see it, of your own knowledge, again until the morning of the 14th?—A. No, sir; I am not positive whether I seen it after that. At least I didn't have it in my possession at that time that I know of, but I am not positive whether I had it the night of the 13th or not.

Q. Yes. And you were inspected on the morning of the 14th?—A. Yes, sir.

Q. At what hour of the day or the morning were you inspected?—A. I think it was half past 6 or 7 o'clock; I am not positive.

Q. Was it the usual hour that the battalion was called out for drill?—A. The usual hour for drill, sir.

Q. You were not called out any earlier or any later than you were usually called out?—A. No, sir; I don't think I was, because the drill call was sounded; but what time it sounded I didn't notice to see, but I think it was the same time that we always fall out for drill.

Q. What belt did you use that morning?—A. I used the russet belt, sir.

Q. You did not use the McKeever box that morning?—A. No, sir; the leather belt. I am not positive now which belt I did use, but I think I fell out for drill in the McKeever—the leather belt.

Q. Now, you stated in your examination in chief that after a gun had been shot the powder would come back into this receptacle on the gun—what did you call it, the chamber?—A. That is not the chamber here; this is the bore of the gun here [indicating].

Q. Now, would any powder fall back into that chamber or bore?—A. Yes, sir.

Q. From a cap that is good? Is it not only a defective cap that will permit powder to escape?—A. I don't know whether it will come back from a cap. I know if you fire a gun you can see the difference; you can see the powder in the chamber.

Q. Will the powder come back in the chamber from a primer that is perfectly good?—A. Why, yes, sir.

Q. Then do I understand you to say whenever you fire one of these cartridges, or a number of cartridges, that, regardless of the condition of the primer or the cap, the powder will come back into the bore of the gun?—A. I don't know whether all of it will come back, sir.

Q. Or any part?—A. Yes, sir; but the powder will stain there after you fire the gun, sir.

Q. That is the invariable rule, from your experience, that the powder will stain the bore of the gun, as you call it?—A. Yes, sir.

Q. And that must be clean in order for the gun to pass a proper inspection?—A. Yes, sir.

Q. Are you quite certain of that, Taylor?—A. Yes, sir; I am.

Senator WARNER. Senator Foster, you speak of the bore of the gun.

Senator FOSTER. That is what he called it.

By Senator FOSTER:

Q. What is the proper technical name for that receptacle here? What is this? What do you call that back here [indicating on

gun]?—A. I have always thought that this was the bore of the gun, right in here. I think I was instructed that it was.

Q. And that is where the powder falls, is it?—A. A portion of the powder; yes, sir.

Q. It comes back?—A. I don't know whether it comes back.

Q. It stains the bore?—A. It stains the bore; but how it comes I am not positive about.

Senator WARNER. The bore of the gun is the barrel.

Senator FOSTER. The bore of the gun is the barrel, but he indicated that as what he called the bore, did you not [indicating on gun]?

The WITNESS. Yes, sir.

By Senator FOSTER:

Q. Did I understand you to say that when you were putting on your clothes you saw English and others at the gun rack?—A. When I got up to the guardhouse; yes, sir. I remember seeing English and Roberts and Cook.

Q. Was that before or after you got to the guardhouse?—A. That was the time I was at the gun racks, sir; about the same time I was at the gun racks.

Q. Did you remember the number of your rifle before your attention was especially called to it by the report of this expert?—A. I had forgotten the number, but after I read over—after it reminded me, I remembered the gun; after I remembered it seemed very familiar, after it came to me.

Q. It has been some time since you were discharged, and probably the number had passed out of your mind, and it was refreshed by reading over this report?—A. Yes, sir.

Q. You were excused from the march that day on account of sickness, were you?—A. Yes, sir.

Q. How long had you been sick?—A. I had just been sick on Sunday. I was sick Sunday night and Monday morning—all day Monday.

Q. Was Wilson on the march?—A. I think so; I am not positive whether he was or not.

Q. Did you go to the hospital? Were you registered at the hospital?—A. Me?

Q. Yes.—A. I went to the hospital, but I am not positive whether my name was on sick report that morning or not. I don't think it was, sir.

Q. Did you see anyone in camp that day, or in the barracks that day, outside of yourself, who had been excused from the march?—A. No, sir; I paid no attention, because I was sick, and I went to bed.

Q. You stayed in bed?—A. Yes, sir.

Senator FORAKER. I want to ask one or two questions, but before I do so I would like to ask you a question, Senator Warner, if you will allow me to do so.

Senator WARNER. Certainly.

Senator FORAKER. One of the questions put to the witness was something of this character: If your gun, when examined by the experts, was found to be foul, having been fired and not cleaned—then he was asked something. I want to know whether or not it was claimed that this number was found, that this gun known by this number was among those found to be foul, or to have been fired, or was it a purely supposititious case?

Senator WARNER. The Senator has the same information about that that I have. All I have is from this report.

Senator FORAKER. I have the report before me, and I had not observed that any gun of this number——

Senator WARNER. I think not.

Senator FORAKER. Had been so reported.

Senator WARNER. I think not.

Senator FORAKER. And I looked over it carefully and could not find any such number. Then, with that explanation, I do not care to examine about that. That is to say, this report which is before us, made by the experts, which we have been referring to, shows that when they examined these guns there were six guns belonging to Company B, namely, Nos. 46544, 45186, 48790, 45517, 45683, and 41968, which were found to be, as they report, with "foul bore; had been fired and not cleaned." The gun that was assigned to this witness, and about which he has been testifying, and the gun that certain shells had been identified with according to this report, was not one of the six, and I do not know of any evidence in the case that shows this gun was at any time found to have been fouled by firing or otherwise.

By Senator FORAKER:

Q. Now, on the target practice you were asked whether or not you could get any extra ammunition. Your service, as I am told by you, has been altogether in the Twenty-fifth Infantry, so far as it has been in the Regular Army?—A. Yes, sir.

Q. Will you explain what the rules and regulations are governing target practice in your regiment, and in your company particularly?—A. In my company a man would stay back in rear of the firing point until his name was called, and whenever the noncommissioned officer called his name he went over to the quartermaster-sergeant and got so many rounds of ammunition. In case he did not fire all that ammunition it was turned back.

Q. Yes.—A. Back to the quartermaster.

Q. State whether or not he got his ammunition and fired his ammunition under the eye of an officer.—A. He always fires and receives his ammunition under the eye of an officer.

Q. And also noncommissioned officers?—A. Yes, sir; two or three.

Q. And is that also true of the skirmish firing as well as the regular target firing?—A. Yes, sir; and during skirmish firing several officers to the company throw themselves along the line of skirmishers in rear of the company and sees that a man fires so many rounds, and in case he does not fire that many rounds they mark how many rounds he does not fire, and take that ammunition away from him; and he is expected to shoot the ammunition he has.

Q. Suppose a man is supposed to fire ten rounds, and he goes up when his name is called and gets that number of cartridges?—A. Yes, sir.

Q. And then goes to the firing point?—A. Yes, sir.

Q. And now suppose that for any reason, instead of firing 10 rounds he fires 8 rounds or 6 rounds only, because of his gun getting out of fix or some other reason?—A. If his gun gets out of fix, the trumpet sounds "Halt," and that man's skirmish is thrown out, and

he is taken back to the firing point and issued more ammunition to make out the required number, whatever it is.

Q. Suppose the trumpet sounds "Cease firing" while he has a cartridge in his gun. What happens as to that?—A. Sir?

Q. Suppose the trumpet sounds cease firing and recall while the man has a cartridge in his gun, what happens as to that?—A. The man wouldn't shoot that cartridge. He would take that cartridge out and turn it back to the quartermaster-sergeant.

Q. He is required to take that cartridge out and turn it back to the quartermaster-sergeant?—A. Yes, sir; that is right; he would take it out and turn it back.

Q. Now, is it possible for a man in target firing, under the practice that obtains in your company and regiment, to filch any cartridges?—

A. No, sir; the quartermaster-sergeant, he knows how many rounds of ammunition he carries out, and he counts them up and knows how many was shot, and he has to give an account of everything, sir.

Q. There was no such practice as there may have been in other regiments of a man coming up and being handed a bandolier with 60 cartridges in it and being told to go off and shoot them at will—

A. Not in my company.

Q. And if he did not shoot them to do what he pleased with the balance?—A. No, sir.

Q. In your company there was a rule that all ammunition should be returned, and in the regiment, and it was enforced?—A. Yes, sir.

Q. If a man violated it, what happened to him?—A. He was court-martialed.

Q. And nobody could disregard it except under the eye of an officer, and at the risk of being detected, could he?—A. No, sir.

Q. Was there any place at Niobrara where you could get this new Springfield rifle, model of 1903, ball ammunition, except from the quartermaster-sergeant?—A. None whatever that I knowed of, sir.

Q. Was there any such place at Fort Brown?—A. I don't know anything about Fort Brown.

Q. You had, yourself, no extra ammunition, I understand you to say?—A. I had no extra ammunition. I didn't see anyone else with any extra ammunition.

Q. You did not have extra ammunition to the extent of a single cartridge, did you?—A. No, sir.

Q. Do you know of any of your comrades in Company B having any extra ammunition?—A. No, sir; I did not.

Q. For the Springfield rifle?—A. No, sir.

Q. I understood you to say in answer to questions put to you by Senator Warner that you personally had no trouble with the citizens of Brownsville?—A. No, sir; I did not.

Q. Did any of your comrades in Company B have any trouble with the citizens of Brownsville?—A. I think Conn was one of them.

Q. How did he spell his name?—A. I think it was C-o-n-n.

Q. George Conn?—A. Yes, sir.

Q. Is that the man you refer to?—A. Yes, sir.

Q. What trouble did he have?—A. I don't know exactly; I just heard of some trouble that Conn had in town.

Q. When did you hear of that?—A. I think five or six days before this happened. It didn't amount to anything. Whether he had this

trouble with Mexicans or with citizens of Brownsville I don't know. I just heard them speak of the trouble Conn had.

Q. Do you know anything about it? This is the first time we have heard of it, and we want to know about it.—A. I don't know, sir. I don't know whether it was official.

Q. What?—A. I don't know whether it was an official report that he had the trouble or not. I never heard him say anything about having the trouble.

Q. You never heard him speak about it at all?—A. No, sir.

Q. Who was it that did speak of it, if you can tell us?—A. I don't know who the man was that spoke of it.

Q. Did you hear any hostile talk toward the citizens of Brownsville on the part of the soldiers at any time before this affair?—A. No, sir; I did not.

Q. Did you hear of anybody conspiring together to go out and shoot up the town?—A. No, sir.

Q. Or commit violence of any nature whatever upon anybody?—A. No, sir.

Q. You heard no threats of any kind?—A. No threats whatever.

Q. Had you any occasion to have any ill feeling yourself that would lead you to join with a lot of conspirators in jumping over the wall and going down there and shooting up the town and killing men, women, and children indiscriminately?—A. No, sir; because I never went out amongst them to get that sort of feeling.

Q. How often were you down in town?—A. I think I was downtown once.

Q. You had been down there two weeks at the time this firing occurred?—A. Yes, sir.

Q. And in that time you had been downtown once. Can you tell us where you went downtown, how far you went downtown?—A. No, sir; but it was on the same street that went out of the post.

Q. There it is, right before you, indicated on that map. This is Elizabeth street that the gate opens out on [indicating]. Is that the street on which you went downtown or uptown?—A. Yes, sir.

Q. How far did you go on Elizabeth street?—A. I went about a couple of blocks, sir.

Q. What did you do?—A. I went into a dry-goods place and bought some handkerchiefs.

Q. Did you have any trouble in there of any kind?—A. No, sir.

Q. You were waited on?—A. Yes, sir.

Q. You got your handkerchiefs and paid for them?—A. Yes, sir.

Q. And was that after pay day or before pay day?—A. Before pay day.

Q. Before pay day?—A. Yes, sir.

Q. Your pay day was Saturday, the 11th?—A. Yes, sir.

Q. Two days before this firing?—A. Yes, sir.

Q. Can you tell us when that saloon that Allison had something to do with was started?—A. No, sir. I think the saloon was built—was put up, rather—about six or eight days after we got to Brownsville.

Q. Was it a new building erected for that purpose, or did they use an old building; did he occupy an old building?—A. No, sir; just occupied an old building.

Q. Just occupied an old building?—A. Yes, sir.

Q. Allison was discharged only a few days before this firing happened, was he not?—A. Yes, sir; I don't remember.

Q. He belonged to your company?—A. Yes, sir; he belonged to my company, but what day Allison was discharged I don't know.

Q. He did not start the saloon until after he was discharged, did he?—A. No, sir; I don't think he did.

Q. After he opened this saloon, however, the men of your battalion went there for such refreshments as they could get at a saloon, instead of going downtown?—A. I think they did, sir.

Q. How often were you there?—A. I don't think I was there over twice; I am sure I didn't go there more than twice.

Q. Are you in the habit of drinking?—A. Why, no, sir.

Q. Do you ever get drunk?—A. No, sir.

Q. Have you ever been court-martialed?—A. Yes, sir.

Q. What for, and when?—A. I was court-martialed once for disrespect toward a noncommissioned officer, and I was court-martialed once for absence without leave.

Q. What was the nature of your absence without leave?—A. I was in town and couldn't get out to the post. At least, I was near Fort Niobrara and couldn't get out to the post; it was 5 miles to the post, and the rig left me and I couldn't get out in time.

Q. That is, you were at Valentine?—A. Yes, sir. I was out until fifteen minutes after 11.

Q. You were out after check roll call?—A. Yes, sir.

Q. Were you out on pass?—A. No, sir.

Q. You did not have to have a pass to go to Valentine?—A. No, sir.

Q. Just so that you got back for the company formation and the regular roll call, you did not have to have a pass, I suppose?—A. No, sir.

Q. What is the rule as to when you are required to get a pass?—A. The rule is, in case a man wants to go out on leave a mile from post, he must have a pass.

Q. A mile from post?—A. Yes, sir; if you are over a mile from post without a pass you are subject to court-martial.

Q. Then you were subject to court-martial when you went to Valentine without a pass?—A. Yes, sir; but there are only about seven men in a company allowed a pass each day; and generally, as a rule among soldiers, they go to town and stay until roll call, and make the roll call—that is, if they are not out on pass.

Q. So that if you had been present at check roll call you would not have been punished?—A. No, sir.

Q. What were you fined, or how were you punished?—A. I was fined a dollar.

Q. You were fined a dollar?—A. Yes, sir.

Q. What was the punishment in the other cases in which you were court-martialed?—A. The other case, I was fined \$5, I think.

Q. That was for what?—A. Disobedience to a noncommissioned officer.

Q. You did not obey a command when you were commanded to do something?—A. Yes, sir.

Q. Those are the only cases in which you have been punished?—A. Yes, sir.

Q. In seven years, you said, of service?—A. Yes, sir; those was the onliest cases.

Q. Now, you were sick all day the 13th, as I understand from your testimony?—A. Yes, sir; I was.

Q. And your company went out on practice march, and you were excused, and I understood you to say you went to the hospital, but returned from there to the barracks?—A. Yes, sir.

Q. And then went to bed?—A. Yes, sir.

Q. Did you get any medicine?—A. Why, no, sir; I did not.

Q. What did you go to the hospital for?—A. I went to the hospital for medicine, but the doctor wasn't there at the time I went to the hospital.

Q. Who was the doctor?—A. They had a doctor; I think his name was Combe.

Q. He was the mayor of Brownsville, was he not?—A. Yes, sir; he was the mayor of Brownsville, but he hadn't gotten in at the time I went to the hospital.

Q. You went and did not find him there, so that you came back without any medicine?—A. Yes, sir.

Q. You said you went to bed. How long did you stay in bed?—A. I stayed in bed until 12 o'clock, and then I got up again, and in the afternoon I attended retreat.

Q. What time did you go to bed that night, the night of the firing?—A. I think I went to bed about 9 or half past 9—a little after that; a little after the lights went out.

Q. And you remained in bed until the firing, I understood you to say.—A. Yes, sir.

Senator FORAKER. That, I believe, is all.

By Senator WARNER:

Q. Mr. Taylor, what, if anything, do you know about the company having surplus ammunition?—A. I don't know anything, sir, of the company having surplus ammunition at all, sir.

Q. You know nothing about that?—A. No, sir; if they had any I don't know anything about it, sir.

Q. Do you know how they could acquire surplus ammunition in a company?—A. Sir?

Q. Do you know how a company could acquire surplus ammunition?—A. No, sir; I do not.

Q. You know nothing about that?—A. No, sir.

Q. Now, this cleaning of a gun you have been asked about, and you speak of cleaning the chamber. That is under the bolt, is it?—A. Under the bolt? No, sir; it is where the bolt fits in at.

Q. Take this gun out of the rack and let us understand that. [The witness took the gun from the rack.]—A. It is up there, sir [throwing back bolt and indicating].

Q. The chamber is that part which the head of the bolt fits in, and just back of the barrel, is it not?—A. No, sir; I think this is the chamber here [indicating].

Q. Then the chamber is not in there [indicating]?—A. No, sir; I was instructed, I think, that this was the bore. I have forgotten.

Q. Now, the chamber is right here [indicating]?—A. Yes, sir.

Q. Then it is that part that would be under the bolt when you insert the bolt, is it not?—A. Yes, sir; I suppose so.

Q. That is the chamber, and that is what you are speaking of. And as I understand, it would take you longer to clean that portion of the gun than it would to clean the barrel?—A. Why, yes, sir.

Q. Now, just for the purpose of cleaning the barrel of the gun, to remove signs of powder after it has been discharged, when it is cleaned within, say, five or six hours after the shooting, how long will it take just to clean the barrel?—A. I don't know, sir. I never tried to clean the barrel without cleaning the bore of the gun.

Q. I know; but I think in your direct examination you have stated that it takes more time here than it does in the barrel [indicating]; and that was referring to this chamber?—A. Yes, sir. It takes more time. But to say just how long it would take to clean the barrel, I could not say, sir. I never did clean the barrel without cleaning the bore part of it.

Q. This thong brush that was furnished with the gun had a place to insert a rag to pull through the gun?—A. No, sir; I never seen a place where you could use a rag and the thong brush, too, sir.

Q. You never saw any such place about it?—A. No, sir; I never seen such a thing on a thong brush. I never remember taking it out more than once or twice.

Q. You do not know of your own knowledge, then, how thoroughly you can clean one of these guns with a thong brush?—A. I know you could clean it with a rag and I know you couldn't clean it with the thong brush, but I never saw any place on the thong brush where you could put a rag to clean it.

Q. Did you ever try to clean your gun with the thong brush?—A. Yes, sir.

Q. Where?—A. At Fort Niobrara, sir.

Q. Did they keep these thong brushes for sale at the canteen?—A. I am not positive; I don't know whether they did or not, sir. I know I never got one from the canteen.

Q. What did you have in your locker for the purpose of cleaning a gun—in your box there at the quarters for cleaning a gun?—A. Nothing more than the rags and oil.

Q. You had them right there?—A. I had some of my own, sir.

Q. That was the case with every soldier, was it not, that took care of his gun?—A. I don't know whether it was or not. You could get oil from the quartermaster-sergeant and also from the chief of your section.

Q. I am talking about a man that cleaned his gun; he kept the rags and oil there, ready for cleaning his gun at any time, did he not?—A. I am not positive whether they all did or not.

Q. That is what you did?—A. Yes, sir.

Q. Would a careful soldier do that?—A. I don't know, sir. There was other soldiers that was as careful as I was. I don't know whether they kept the rags and the oil or not.

Q. You had no rod?—A. No, sir; I had no rod. There was only one rod in my section, and it was kept locked in the room of the chief of my section.

Q. The rods were kept locked up?—A. Yes, sir. We had lost ours once or twice by taking it out on the range, and after we got another one he generally kept it in his room where he stayed, and if

you wanted to use it, you would have to go and get it from him, and then let him see you bring it back.

Q. Did you not see rods there manufactured from wire?—A. No, sir.

Q. You never saw one manufactured from wire?—A. No, sir.

Q. You do not know whether they could be manufactured from wire or not?—A. I don't know, sir. I never seen any. I don't know whether any could be made out of wire or not.

Q. But you did have the rag and the oil?—A. Yes, sir.

Q. What was the disobedience of orders that you say you were court-martialed for? I do not know that that makes any difference.—A. I was ordered to my squad room, and I refused to obey until after I got through.

Q. That was at Fort Niobrara?—A. Yes, sir.

Q. Now, in the target practice—that is what you call range firing, is it not?—A. Yes, sir.

Q. The quartermaster-sergeant, you say, went out with the company?—A. Yes, sir.

Q. He went out with the ammunition?—A. Yes, sir.

Q. Always?—A. Not at all. When the quartermaster-sergeant didn't go out, another noncommissioned officer did go who was acting as noncommissioned officer when he was on the range in issuing ammunition and so forth.

Q. In the skirmish firing, how far would you be separated by the skirmish firing—the company?—A. I think 10 yards; I think it is.

Q. Ten yards—the space?—A. Yes, sir; 10 paces.

Q. Ten paces; and how many men in the skirmish line?—A. I have forgotten. I think that we run 18 and 20 men, somewhere along there, at once.

Q. So that the length of the skirmish line would be 18 or 20 times this distance—how many yards did you say; 10 yards?—A. Ten paces; yes, sir.

Q. Ten paces. That would be one company?—A. Yes, sir.

Q. And how many officers would be there?—A. In general, four and five officers; probably more.

Q. Commissioned officers?—A. Commissioned officers, sir.

Q. What company had four or five commissioned officers with you at Fort Niobrara?—A. There was no company had four or five commissioned officers assigned to the company, but in shooting for our records they always detailed so many officers in the pit and so many officers in the rear to see that a man didn't fire too many shots in the time they had to fire them in or didn't fire enough, sir.

Q. Did you ever go hunting?—A. No, sir—yes, sir; I went hunting.

Q. Would you take your rifle?—A. No, sir.

Q. What would you take to go hunting with?—A. The company had shotguns, sir.

Q. The company had shotguns?—A. Yes, sir.

Q. Did you know anything about getting cartridges and going hunting?—A. I know it wasn't allowed in B Company—in the regiment, rather, the part I was in.

Q. How many shotguns did your company have?—A. We had three, I think.

Q. Who kept those?—A. The quartermaster-sergeant, in the storeroom.

Q. Open, in the storeroom?—A. No, sir; they were put up.

Q. They were put up how?—A. They were put up in a box; I don't know what kind of box; I know they were just kept locked up in a box.

Q. Pistols, too?—A. I don't know anything about pistols, sir, at all.

Q. You do not know anything about them?—A. No, sir.

Q. But your company had three shotguns?—A. Yes, sir; three shotguns.

Q. You never went hunting with your regular gun?—A. No, sir.

Q. Was that permitted?—A. No, sir.

Q. No cartridges were issued for hunting?—A. No, sir.

Q. That is your experience in the Army?—A. Yes, sir.

Senator WARNER. That is all.

(Witness excused.)

Senator FORAKER. When this witness was sworn, I neglected to offer in evidence his official record as furnished by the War Department, and I would like to have it inserted at this point as found on page 253 of Senate Document No. 155.

The record referred to is as follows:

THOMAS TAYLOR.

Enlisted September 19, 1899; was discharged as a private of Company G, Forty-eighth United States Volunteer Infantry, June 30, 1901, by reason of muster out of company; character excellent.

Reenlisted July 16, 1901; was discharged as a private of Company B, Twenty-fifth Infantry, July 15, 1904, on expiration of term of enlistment; character very good.

Reenlisted July 18, 1904; was discharged without honor as a private of Company B, Twenty-fifth Infantry, November 19, 1906.

TESTIMONY OF JOSEPH L. WILSON (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Give us your full name.—A. Joseph L. Wilson is my name.

Q. Did you belong to the Twenty-fifth United States Infantry during the year 1906, while it was stationed at Brownsville, Tex.?—A. I did sir.

Q. What company did you belong to?—A. B Company.

Q. How long had you been in the Army when you went to Brownsville?—A. Well, sir, I don't know just exactly how long I had been in the Army, though I came in the Army in 1904, the 28th of November.

Senator FORAKER. I would like to have put in the record at this point the official record of this witness as furnished by the War Department, as found at page 255 of Senate Document 155.

The record referred to is as follows:

JOSEPH L. WILSON.

Enlisted November 28, 1904; was discharged without honor as a private of Company B, Twenty-fifth Infantry, November 19, 1906.

By Senator FORAKER:

Q. According to this record, it appears that you were serving your first enlistment.—A. Yes, sir.

Q. It appears you enlisted November 28, 1904.—A. Yes, sir; I did, sir.

Q. Where were you enlisted—at what place?—A. I enlisted at Knoxville, Tenn.

Q. Knoxville, Tenn.?—A. Yes, sir.

Q. Of what State are you a citizen when you are at home?—A. North Carolina.

Q. What place in North Carolina was your home?—A. Glen Alpine.

Q. It appears from this official record that you were discharged without honor November 19, 1906. What did you do when you were discharged; where did you go?—A. I went to Joliet, Ill.

Q. Have you been there ever since?—A. Yes, sir.

Q. Have you employment there?—A. Yes, sir.

Q. With whom, and what is the nature of it?—A. With the Monroe Hotel, as porter.

Q. With the Monroe Hotel as a porter?—A. Yes, sir.

Q. You were subpoenaed at that place, were you, to come here?—A. Yes, sir.

Q. Now, were you with your company on the night of August 13, 1906, when this firing occurred at Brownsville about which we are having this investigation?—A. Yes, sir.

Q. Where were you when the firing commenced?—A. I was in my quarters, in my bed, asleep.

Q. At your quarters?—A. Yes, sir.

Q. Awake or asleep?—A. I was asleep.

Q. In your bunk?—A. Yes, sir.

Q. What did you do and what did you hear? Tell us all you can about it, as fully as you can recollect.—A. Well, I was woke up by the noise that the men was making in the quarters, getting on their clothes, and when I woke up I could hear shots being fired, and I could hear the bugle sounding the call to arms.

Q. What did you do?—A. I gets up and puts on a portion of my clothes, what I could make out with, and gets on my shoes and goes to the gun rack as soon as I could, and at that time the sergeant was there getting the gun racks unlocked.

Q. Who was the sergeant unlocking the gun racks?—A. Sergeant Jackson.

Q. What duty was he on at that time?—A. He was in charge of quarters.

Q. And was it a part of his duty to open the gun racks?—A. Yes, sir; it was his duty.

Q. In what gun rack did you keep your gun?—A. The third section.

Q. In the third section?—A. Yes, sir.

Q. Did your gun have a number?—A. Yes, sir; my gun had a number.

Q. What was the number? I don't mean the number of the gun, I mean the number of its place in the gun rack.—A. Thirty-one was my number in the gun rack.

Q. Thirty-one was your number?—A. Yes, sir.

Q. Now, can you tell us what gun you got hold of that night?—A. I don't know exactly what gun I got hold of, but I do know I got a gun out of 31.

Q. Thirty-one?—A. Thirty-one; that is where my gun was supposed to be.

Q. Were you there when Sergeant Jackson opened that gun rack?—A. I was there pretty soon, before he could get away. I was not there when he was opening the gun rack, but before he could get away with the light I reached in and got my gun.

Q. Do you think you got yours?—A. I am pretty certain I got mine. I don't know for certain I did, because I didn't look at the number of the gun, but I only looked at the number where the gun was in that rack.

Q. Can you recall and state at this time what the number of your gun was?—A. The number of my gun was 46524, if I make no mistake.

Q. State whether or not your recollection has been refreshed since getting here by seeing this printed document which I have.—A. Yes, sir; it has.

Q. Your recollection being refreshed by looking at that, you recall that that was the number of your gun?—A. Yes, sir.

Q. You did not look at the number that night, however?—A. No, sir.

Q. Now, what did you do when you got this gun—whether it was yours or some other gun—out of a gun rack?—A. When I got this gun I goes right downstairs, as the rest of the men was going down, and fell in line.

Q. Can you tell us about where in the company formation you took your place, how near to the right or left or center of the company?—A. I was rather to the left of the company, because men was falling in on each side.

Q. State whether or not you saw Thomas Taylor that night.—A. Yes, sir; I did.

Q. Where did you see him?—A. He was on the right of me.

Q. On the right of you?—A. Yes, sir.

Q. How near were you and he, if you can tell, to the right of the company?—A. He was nearer to the right of the company. He was, I think, four or five files nearer to the right of the company than I was.

Q. Were you at any time next to him in the formation of that company?—A. That night?

Q. Yes.—A. No, sir; I wasn't next to him, that I remember.

Q. You don't remember that you were?—A. No, sir; not next to him.

Q. What occurred after you fell in line?—A. Well, at that time Major Penrose came over and hollered to get those men in line—to fall in—and the first sergeant wasn't there at that time, and the

senior noncommissioned officer was in charge, and so that was Corporal Daniels at that time; he was a corporal.

Q. Corporal Daniels or Corporal Coltrane?—A. Corporal Daniels just then; and pretty soon Corporal Coltrane came down, and then he took command; he was senior to Corporal Daniels.

Q. Then who else came and took charge of the company formation?—A. Pretty much all of the company had fell in, and by that time the first sergeant came, and of course he was in command of the company then.

Q. What did he do?—A. Corporal Coltrane was the senior corporal, and so he falls in on the left, because Corporal Daniels had already taken the right as right guide.

Q. What did the first sergeant do when he came?—A. The first sergeant goes to my left, and he had a lantern, or if he didn't have one he goes and gets one, and he commenced calling the roll just as soon as he could get there.

Q. You saw him calling the roll?—A. Yes, sir; I did; he was standing right in front of the company calling the roll.

Q. Did he have a light?—A. Yes, sir; he had it right in his arm, like this [indicating].

Q. What kind of a light was it?—A. It was a lantern.

Q. You do not know where he got it?—A. No, sir; I do not know where he got it.

Q. Did he call the roll all the way through?—A. Yes, sir.

Q. Did he call your name?—A. Yes, sir.

Q. Did you answer to it?—A. Yes, sir.

Q. What else did you do when you answered to your name?—A. I came to an order arms.

Q. You had a gun?—A. Yes, sir.

Q. And you had it at the right shoulder?—A. Yes, sir.

Q. And you came to order arms?—A. Yes, sir.

Q. That is what every man was required to do?—A. Yes, sir.

Q. Now, what did you do after that? I am going to skip over some of this that we have been over so often. Did you remain with your company and remain until it was dismissed for the night?—A. Yes, sir.

Q. You went out with it when it was formed behind the wall fronting the town?—A. Yes, sir.

Q. And you remained there with it?—A. Yes, sir.

Q. Did you have in your possession all the time while you were there the same gun you got out of your gun rack?—A. Yes, sir.

Q. And when the company was finally dismissed what did you do with that gun?—A. I put the gun back in the gun rack.

Q. What happened next after that?—A. After what?

Q. After your guns were put back in the gun racks, what happened next?—A. The guns were locked up, and the men were dismissed, and we all went back to bed again.

Q. Did you go back to bed?—A. Yes, sir.

Q. And when did you next get up?—A. I got up the next morning—let's see. If I make no mistake, I wasn't called to get up any more before reveille.

Q. Not before reveille?—A. No, sir.

Q. When did you next get your gun out of the gun rack?—A. I got my gun out of the rack next for drill.

Q. Did you get your own gun?—A. Yes, sir; I gets my own gun.

Q. You found it in the gun rack?—A. Yes, sir; it was in the gun rack. That is where I put it at.

Q. Do you know in what notch it was?—A. I never noticed, the next morning.

Q. Yes; but you did notice, and you do know, you got your own gun?—A. Yes, sir; I got my own gun.

Q. Could you tell your own gun from the other guns in the daylight?—A. By looking at the numbers of them.

Q. I mean did it have any distinguishing marks, such as the color of the wood, or any such thing?—A. I had one mark on my gun that I could tell it by, and that was the sling. The sling had become loosened, and I cut a couple of places to tighten up the sling.

Q. The sling is the leather strap fastened under the barrel?—A. Yes, sir.

Q. And you cut a couple of holes in that to tighten it up?—A. Yes, sir.

Q. In that way you knew your own gun from the other guns?—A. Yes, sir.

Q. And you knew that you had this gun the next morning?—A. Yes, sir; I know I had it the next morning.

Q. When you fell in for drill what happened?—A. We had inspection instead of drill.

Q. Was your gun inspected?—A. Yes, sir.

Q. By whom?—A. By Lieutenant Lawrason.

Q. Was that a careful and rigid inspection, or what kind of an inspection was it?—A. It was a very particular inspection.

Q. What was the result as to your gun?—A. My gun was clean.

Q. It was found clean by the officer?—A. Yes, sir; by the officer.

Q. By Lieutenant Lawrason?—A. Yes, sir.

Q. It has been testified here that he found a number of guns that he thought he would like to reinspect, and he stepped the men carrying those guns aside, some six or seven of them in number. State whether or not you were one of those men.—A. No, sir; I was not.

Q. Your gun passed without any reinspection?—A. Yes, sir.

Q. You put your gun in the gun rack that night and took it out the next morning. When had you put it in the gun rack prior to the time when it was taken out that night—when did you last have possession of it, if you can tell?—A. The last I had possession of my gun before that night was—

Q. Were you with your company on the practice march the Monday morning before the firing?—A. Yes, sir.

Q. You went on that practice march?—A. Yes, sir; that was the last time I had my gun in my hand.

Q. You had your gun then?—A. Yes, sir.

Q. And your ammunition?—A. Yes, sir.

Q. What time did your company get back from that practice march?—A. I don't know exactly what time they got back. I guess it was along about noon, sometime.

Q. Along sometime in the forepart of the day, you think?—A. Yes, sir.

Q. What did you do with your gun when you came off of the practice march?—A. I cleaned up my gun a little before I put it in,

because it was very dusty. The roads were dusty and the guns attracted lots of dust by them having oil on them like that, and I rubbed it off and cleaned it up some before I put it in the gun rack.

Q. Then you put it in the gun rack?—A. Yes, sir.

Q. Did you have it out after that time until the firing occurred?—A. No, sir.

Q. You did not see it any more?—A. No, sir.

Q. It was locked up in there at the time you put it in, I suppose?—A. Yes, sir.

Q. The next morning, coming back to that, it was inspected and you were in ranks with your company?—A. Yes, sir.

Q. What did you do when your gun had been inspected? Did you go with your company on guard that day?—A. Yes, sir; I went with my company on guard.

Q. Now, state whether you had anything to do with this firing in Brownsville that night?—A. No, sir; I did not.

Q. You were not out down in town with your gun shooting up people and houses and women and children and trying to murder somebody?—A. No, sir.

Q. You were not there at all?—A. No, sir.

Q. Do you know of anybody who was there from your company?—A. No, sir.

Q. Have you knowledge of any fact of any kind that leads you to suspect anybody connected with your company of participation in that firing?—A. No, sir; if I had, I would have told it.

Q. You have told what you knew about it?—A. Yes, sir.

Q. Have you ever withheld any knowledge regarding this matter from anybody who has inquired of you about it?—A. No, sir; I have not. I have given all the information that I could give about anything I have been asked.

Q. Do you know anything about anybody in either of the other companies that had anything to do with it?—A. No, sir; I do not.

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF JOSEPH L. WILSON (COLORED)—Continued.

JOSEPH L. WILSON (colored), a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. Now, if I understand correctly what you said about it this morning, your gun was not fired at all while you were in Fort Brown, so far as you are aware.—A. No, sir.

Q. You did use it in target practice at Fort Niobrara?—A. Yes, sir.

Q. And you carried it when the battalion left Fort Niobrara from down there to Fort Brown?—A. Yes, sir.

Q. You did not use it at all, to fire it, after the firing at Brownsville that night, prior to your leaving Fort Brown, did you?—A. No, sir.

Q. State whether or not you used that rifle for firing at any other time after you left Fort Brown; and if so, where and in what way.—A. I used it at Fort Reno on a competition that they had there—first-class competition.

Q. Was that a regular, authorized target firing?—A. Yes, sir.

Q. How many men from your company were engaged in target firing at Fort Reno?—A. Well, sir, I do not know, though there were five engaged there at the time I was.

Q. Can you tell us who that five were, so that we can have their names in the record?—A. I don't know, sir, whether I can or not. I can give some of the names.

Q. In so far as you may be able to give us the names, please do so.—A. If I make no mistake, it was Sergeant Blaney and Corporal Watlington—

Q. How many others?—A. And myself. That was three. I disremember who the other two was.

Q. You do not remember now?—A. No, sir.

Q. Tell us again just what kind of firing it was that you and those men were engaged in.—A. Well, so far as I know about it, it was a competition, and about five companies there at the time, and each company had five men detailed to fire.

Q. That is to say, there were five men from Company B, your company, and five men from D Company, and five men from C Company detailed?—A. Yes, sir.

Q. How often did you have that kind of competitive firing?—A. They only did it twice, I think, while I was there.

Q. Did you, or not, have it once a month?—A. I do not know, sir, how often they did it.

Q. How did you happen to participate in that competitive firing? Were you detailed for it, or were you an applicant?—A. I was detailed. They detail the highest first-class men.

Q. The highest first-class men from the company?—A. Yes, sir.

Q. What is this competitive target firing with reference to—prizes, or what?—A. Well, sir, I do not know.

Q. All that you know is that you were detailed to engage in this competitive target firing at Fort Reno, and you did engage in it?—A. Yes, sir.

Q. And were you detailed for that kind of target firing more than once when you were at Fort Reno?—A. No, sir; only once that I can remember.

Q. And can you tell us whether that was in September or October?—A. Well, sir, if I make no mistake, it was in October.

Q. About how much firing did you do in connection with that competitive firing at Fort Reno?—A. I do not know.

Q. Any idea how many shots you fired, or how long you were at it?—A. It was somewhere about 20 shots. I think—something like that.

Senator PETTUS. Mr. Chairman, I should like to know what connection this has with the matter in controversy.

Senator FORAKER. It is this, Senator Pettus: According to this microscopic inspection report, six guns belonging to B Company were found, when they were taken to the arsenal, to have been fired and not fully cleaned, or not cleaned, as they said in the remarks made opposite the numbers of those guns. I am simply meeting the possible claim that his gun was one of those found in that condition, and I want to show that it would be due to firing after they left there. That is all.

Senator FRAZIER. I think, Senator, if you will examine the report again, the gun that this man had, as indicated by its number, has no remarks opposite it.

Senator FORAKER. No, it has no remarks opposite it, but there is another number here, 46544, and I did not know but what it would be claimed, in view of a question asked the witness this morning by Senator Warner, that this gun had something to do with it; but if it is not claimed that the gun of this witness was found in that condition, I will pass it. I was ready to pass it anyway, because I have shown that it was fired in this way, after he left Fort Brown.

Q. Now, your gun, according to a report that was placed before this committee, is identified with certain cartridge shells that were picked up in the streets of Brownsville on the morning of August 14, the day after this firing. That group of shells, as it is called in this report, is group No. 4, and consists of three shells, and according to the report made to this committee, and the diagram or picture that has been furnished us, it appears that each of these shells was struck twice before it exploded. I will ask you whether or not your gun, at the time you were at Fort Brown, was in the habit of missing fire? I mean when you left Fort Niobrara, where you last used it.—A. When I left Fort Niobrara it was not.

Q. And you did not use it at Fort Brown?—A. No, sir.

Q. Was there ever any time when it sometimes snapped the cap, so to speak, and had to be fired twice?—A. Not whilst it was in my charge.

Q. Well, I will ask you whether you remember the condition of the gun at the time when it was first issued to you; whether or not it had cosmoline oil on it, and whether or not there was some difficulty in firing it at that time?—A. Yes, sir; it had lots of oil on it, though I cleaned it off—I was ordered to clean it off.

Q. Until it was cleaned off, did your gun work right, or not, in that respect?—A. Well, it worked all right, as far as I could tell, though I did not try to shoot it.

Q. At any rate, while you were engaged in target practice at Fort Niobrara, and particularly after you had your gun in good working condition, you did not have to strike the cartridge twice in order to explode it?—A. No, sir.

Q. Now, I want to ask you something about this target practice, whether there are, or not, certain rules and regulations which you are required to observe when you engage in target practice?—A. Yes, sir.

Q. Whether there are, or not, officers or noncommissioned officers present to superintend the firing?—A. Yes, sir.

Q. State whether or not the firing, including the getting of your ammunition and all that you do, is under the eye of an officer or a noncommissioned officer all the while.—A. Yes, sir; it is.

Q. Suppose you are required to fire all 10 rounds, how do you get your ammunition and from whom?—A. From the man who is in charge of it at the firing point.

Q. Who is that man, ordinarily?—A. A noncommissioned officer.

Q. Is it the quartermaster-sergeant, or some representative of him?—A. Yes, sir.

Q. Is he in charge of the ammunition there for the purpose of distributing it to the men who do the firing?—A. He is in charge of it, sir.

Q. How much do you get from him—the number of cartridges you are to fire, or some other number?—A. The number that you are supposed to fire there. He issues them then.

Q. Suppose you are required to fire 10 cartridges, do you get that number?—A. Yes, sir.

Q. Now, let us suppose that something happens to your gun or that for some reason you do not fire all of them, what do you do with all the extra ones?—A. You have to turn them back.

Q. Turn them back to the quartermaster-sergeant?—A. Yes, sir.

Q. State whether or not you would be allowed to keep them.—A. No, sir; I would not.

Q. State what would happen to you if you undertook to keep them, put them in your pocket or hid them about your person, appropriated them to yourself.—A. In case I did anything like that and I was caught up with it I would be court-martialed.

Q. And you would be very likely to be caught at it, would you not, with the officer watching you?—A. Yes, sir.

Q. Did you have any surplus ammunition for your Springfield gun?—A. No, sir.

Q. Did you have any at all at Fort Brown?—A. No, sir; only what I was issued.

Q. Do you know of any of your comrades in Company B having any surplus ammunition?—A. No, sir.

Q. Were the men in your company allowed, at any time when you were connected with it, to accumulate surplus ammunition?—A. No, sir.

Q. When you had inspection, your ammunition was always inspected, was it not?—A. Yes, sir.

Q. And your quarters were inspected?—A. Yes, sir.

Q. Were your lockers inspected also?—A. Yes, sir.

Q. And everything about the premises?—A. Yes, sir; everything was inspected.

Q. Was your clothing inspected?—A. Yes, sir.

Q. Were you required even to expose your feet, so that they might see whether they were in good condition?—A. Yes, sir; when we came off our practice marches we did.

Q. When you were engaged in target practice did it ever happen that when you were about to shoot you were suddenly stopped from firing by the flag going up or the call of the trumpeter to cease firing?—A. Yes, sir.

Q. If you were about to fire your piece and had it loaded, in the

event of the call to cease firing being sounded what would you do with the cartridge that was in your gun?—A. The officer that was in charge at the firing point would have you unload your gun and turn your cartridges back—that is, if the firing had stopped for that day.

Q. Well, that was a common occurrence, was it not, happening often?—A. It happened quite often.

Q. Did you ever know it to happen except in connection with target practice?—A. No, sir; that is the only firing I was ever doing.

Q. You were serving your first enlistment?—A. Yes, sir.

Q. Did you have any trouble at Brownsville with any of the citizens there?—A. No, sir.

Q. Were you out in town while you were there?—A. Yes, sir; when I first went there and all along.

Q. How often were you down town?—A. Well, sir, I did not go down there so often, though I guess I was down town sometimes once or twice a week. I would go around in the stores, or something.

Q. You were there about two weeks?—A. Yes, sir.

Q. Did you have any trouble on any of those occasions?—A. No, sir; not on any occasion.

Q. Nobody offended you?—A. No, sir.

Q. Nobody struck you?—A. No, sir.

Q. Nobody insulted you?—A. No, sir.

Q. Did anybody in your company have any trouble?—A. No, sir; not to my knowledge.

Q. Did you hear any of the men of your company making any threats against the people of Brownsville at any time?—A. No, sir.

Senator FORAKER. I believe that is all I care to ask.

By Senator WARNER:

Q. As far as you were concerned, you were treated very nicely at Brownsville?—A. Yes, sir; I was treated very nicely, as far as I was concerned.

Q. You heard no complaints of your comrades there?—A. No, sir.

Q. They seemed to be glad of the change, getting away from Nebraska to Brownsville?—A. Yes, sir; they were quite glad of the change.

Q. And treated there as nicely as you had been treated out in Valentine? Valentine is a little town 5 miles from Niobrara, is it not?—A. Yes, sir.

Q. Treated the same?—A. I don't know as they was treated the same. I did hear some of them saying something about that they could not drink in the saloons, or something like that.

Q. You did hear about that?—A. Yes, sir.

Q. Complaining about it?—A. They did not complain about it; they said: "Oh, you needn't go into the saloons there, because you will be refused." I said: "Well, I don't drink, nohow; I don't care anything about that."

Q. That did not affect you?—A. No, sir.

Q. But you did hear complaints about it?—A. They were not complaining about it; they just simply said: "You needn't bother about going into any of those saloons or any place, because you will be refused."

Q. And they also said they had put up separate bars for their accommodation, didn't they?—A. Yes, I think I did hear something about them putting up separate places, or something like that.

Q. And the men did not feel like going in to drink at a separate bar; if they could not be served at the other bar, would not patronize it?—A. I don't know, sir, about that; I don't know whether they went in and drank or not. I did not go into any of them to drink, because I do not care anything about it.

Q. So you did not go into any of them?—A. No, sir; I did not follow any of the men around and see what they did or where they went or anything like that. I was accustomed to stay very close around the post; I never was accustomed to run around like the other soldiers.

Q. You did not interfere with the other soldiers' business?—A. No, sir.

Q. The next morning after this shooting up, you heard, did you not, that it was charged by some of the citizens that the soldiers had shot up the town?—A. Well, sir, the next morning, as far as I could understand about it, the post had been fired on from the citizens.

Q. When did you hear that the citizens charged that the soldiers had done the shooting?—A. When did I hear it?

Q. Yes.—A. Well, the next day.

Q. The very next day?—A. Yes, sir.

Q. Whom did you hear say it?—A. I heard it talked around that they thought that some of the soldiers did the shooting, or something like that.

Q. What was said about it?—A. There was not anything said about it, only they said they thought some of the soldiers did the shooting.

Q. Did you try to find out anything about it?—A. I asked all I could around about it, but I could not get any information.

Q. And what did you ask?—A. I asked them did they know anything about it.

Q. Whom did you ask about it?—A. Several of the men standing around. I would ask them did they know anything about it, and they said they did not know anything about it.

Q. Was there talk of it in the mess room?—A. No, sir; not particularly; I don't know that we talked in the mess room.

Q. And you were there how long after the shooting?—A. I was there until the three companies was moved.

Q. You were not one of the parties who were arrested?—A. No, sir.

Q. The night before the shooting, you had gone to bed at what time in the barracks, or in your quarters?—A. Well, sir, I do not know exactly what time I went to bed; I guess it was along about 9 or 10 o'clock, somewhere about that, when I went to bed.

Q. You knew about the patrol sent out in the town?—A. No, sir; I did not know about it; I had heard something about there was going to be one sent out.

Q. When did you hear that?—A. Well, that evening, along after retreat; something like that.

Q. Retreat is at 6 o'clock, is it not?—A. Yes, sir; retreat is at

6 o'clock, and pretty soon after this, before any of the men could get us. He told us that the men would not be allowed out of the post after 8 o'clock.

Q. Why?—A. I don't know, sir.

Q. Did you ask?—A. I asked, but I did not find out.

Q. Didn't you hear the noncommissioned officers state?—A. The first sergeant, that was in charge of the company, read the order to us—he told us that the men would not be allowed out of the post after 8 o'clock.

Q. That was something unusual, was it not?—A. Yes, sir.

Q. The first time it had occurred while you were there?—A. The first time it had occurred whilst I was there.

Q. Did this ever occur at Niobrara?—A. No, sir.

Q. Then it was the first time that it had ever occurred while you were in the service.—A. Yes, sir.

Q. An order of that kind.—A. Yes, sir.

Q. Prior to that time, if you were in at check roll call at 11 o'clock, you could be out until that time, could you not?—A. Yes, sir.

Q. This order was given on Monday. That was the day of the shooting up, was it not?—A. Yes, sir.

Q. You had heard of some difficulty there—the charge that some assault had been made upon a lady there, had you not?—A. Yes, sir; I heard something of that.

Q. Was not that connected with keeping the men in?—A. Well, sir, I do not know whether it was or not.

Q. I am talking about what you heard talked over among the men.—A. Yes, sir; I heard that talked.

Q. That is was on account of the feeling gotten up by reason of that?—A. Yes, sir; I suppose it was.

Q. Well, don't misunderstand me, Mr. Wilson; I don't want you to answer that way unless you understand the question. Was that talked of among the men—among you and the other men—that the reason of the order was because of this alleged assault upon Mrs. Evans?—A. I don't know, sir, whether it was the reason of the order or not, though I heard that talked.

Q. You heard that talked?—A. Yes, sir.

Q. Did you pay any special attention to the roll call?—A. At what time?

Q. The night after the shooting was going on, or when you were called out at midnight.—A. Yes, sir; I paid special attention when I heard my own name called.

Q. Did you pay special attention to others?—A. I heard others called.

Q. Did you pay any more attention than you paid to any other roll call?—A. Yes, sir.

Q. Why?—A. Because it seemed like it was more interesting than the other roll calls.

Q. Why more interesting?—A. Because the firing was going on back there.

Q. Was it for the purpose of seeing whether any of your men were in the firing?—A. Yes, sir; I supposed it was.

Q. What made you think there was a possibility of any of your men being in the firing?—A. I didn't have any reason to think that any of them was in it; I didn't think that any of them was in it.

Q. But you listened to the roll call, did you, to find out whether they were or not?—A. I did not listen to find out that, though I was listening to the roll call.

Q. Did you hear the call to arms?—A. Yes, sir; I was not in bed. As soon as I was awakened I was out of bed, getting on my clothes, and of course I could hear the call to arms going then.

Q. It just depended on what time the call was going?—A. I expect it had been going in for a few seconds, anyhow, before I woke up.

Q. But it was going when you woke up?—A. Yes, sir.

Q. And there was considerable noise in the barracks then, was there?—A. Yes, sir.

Q. Men in confusion there, getting their guns?—A. Yes, sir.

Q. What company was your company?—A. Company D.

Q. You got your gun?—A. Yes, sir; I got my gun and went right down and fell in line.

Q. Possibly the question may be misinterpreted—that is, did you get your gun, or did you simply get a gun out of the rack?—A. My number on the gun rack was No. 31, and I got the gun out of 31. I did not notice the number on the gun that night.

Q. Did they have a light there in the barracks?—A. Yes, sir; the man in charge of the quarters was unlocking the gun racks.

Q. What kind of a light did he have?—A. Well, sir, if I make no mistake, it was a lantern.

Q. A lantern?—A. Yes, sir.

Q. Now, your gun-rack number was 31, was it?—A. Yes, sir; my gun-rack number was 31.

Q. Where was that gun-rack number with reference to the gun rack?—A. The number was along there [indicating].

Q. When you say "along there," that is on the iron band, or on the wood below the iron band?—A. Well, sir, it was right along there.

By the CHAIRMAN:

Q. Down by the butt of the gun?—A. Yes, sir; right along by the butt of the gun.

By Senator WARNER:

Q. How was that marked—with a stencil, or how?—A. Yes, sir; marked with a stencil.

Q. What was the color of the letters?—A. White.

Q. White letters?—A. Yes, sir.

Q. Or figures?—A. White figures.

Q. So you had good enough light at the time you heard the call to arms, or got out of bed to go to that gun rack, to see the number of the notch in the gun rack in which your gun was kept, did you?—A. When I got out of bed, when I got my clothes on, or as many as I intended to put on, because I was in a hurry, I got there just as the sergeant was getting the rack open. I reached right in and got the gun that was in 31.

Q. Well, I know; but you looked down and saw No. 31?—A. Yes, sir.

Q. There was good enough light there then to see that?—A. Yes, sir.

Q. You are quite clear about that, are you?—A. Yes, sir; there was enough light for me to see 31.

Q. So anyone else could have seen the number of his gun, too, if he had wanted to?—A. I do not know whether anyone else could or not. I know I did. I could see the number that was on the rack.

Q. And you took it out of 31?—A. Yes, sir.

Q. When you went back, where did you put it?—A. I don't know, sir, exactly where I put it when I went back.

Q. Was it not your custom when you put your gun back in the gun rack to place it in No. 31?—A. Yes, sir; that was the custom.

Q. Was that your invariable practice?—A. Well, that was my practice, to put my gun back in my number when I got through using it.

Q. Why is it you did not remember where you put it back that night?—A. Because something unusual happened that night.

Q. What was it?—A. Because of that disturbance.

Q. There was not any disturbance going on when you put your gun back in the gun rack?—A. No, sir; there was not any then; we had been relieved.

Q. As soon as you put your gun in the gun rack you went back to bed and went to sleep?—A. Yes, sir; I did not go to sleep right away.

Q. Well, reasonably soon, did you?—A. I don't know whether it was reasonably soon or not. I went to sleep, though, before I woke up for reveille.

Q. You went to sleep before you woke?—A. Yes, sir; I was asleep when I woke up for reveille.

Q. I guess that will do for that; but there was no special excitement when you went back to the barracks to put your gun away?—A. Well, sir; not very much.

Q. But there was a very great deal of excitement when you got your gun?—A. Yes, sir; there was quite an excitement then.

Q. And at that time you were particular to notice the number of the gun?—A. Yes, sir.

Q. That is, of the place in the gun rack.—A. Yes, sir.

Q. But when you put it back you paid no attention to that?—A. I didn't pay very much attention to it.

Q. Did you pay any attention to it?—A. I paid some attention to it. I guess I put my gun in the same place.

Q. What makes you guess so now?—A. Because I carried my gun and put it in the rack.

Q. Well, I know; but you took your gun out of the rack, too. Have you any remembrance about that?—A. What is that?

Q. About when you got your gun or about when you put it away?—A. Yes, sir; I have a remembrance about when I got my gun, all right, and when I put it away.

Q. Who called the roll of your company?—A. Sergeant Sanders.

Q. When you got downstairs was Sergeant Sanders there?—A. No, sir; he was not there at that time.

Q. How long after you got downstairs?—A. Well, it was not but a short while.

Q. He lived how many hundred yards away?—A. I don't think it was so many hundred yards. It was not more than two or three hundred yards. I don't reckon, from my best judgment.

Q. I think likely that is right. He lived there, but came down and called the roll?—A. Yes, sir.

Q. Where was the first firing you heard?—A. The first firing I heard was in Elizabeth street, right straight back in the rear of the quarters.

Q. In the rear of B Company's quarters?—A. It was down Elizabeth street, sir; that is where I heard the first firing.

Q. Here is supposed to be a map. This is Elizabeth street, running into the gate [indicating]?—A. Yes, sir.

Q. This is B barracks here, just to the right of the gate as you go out, and this is D barracks to the left of the gate as you go out, and this is C barracks up here. Now, where would you locate that shooting?

Senator SCOTT. Explain to him which is the parade ground.

By Senator WARNER:

Q. I was not going to ask anything about that; but this is the parade ground, and these are the officers' quarters.—A. Yes, sir.

Q. And up here is the guardhouse, and so forth, and this is the Rio Grande River. You knew where the telegraph office was?—A. Yes, sir.

Q. At the corner of Elizabeth street and the garrison road?—A. Yes, sir.

Q. Was the shooting in that neighborhood?—A. Yes, sir; the first I heard, it was in that neighborhood.

Q. Right in that neighborhood?—A. Yes, sir.

Q. And then where did you hear it?—A. Well, it continued back there, all that I could hear.

Q. Did it continue there, or did it recede from the fort?—A. Well, sir, I don't know whether it was receding from the fort or not.

Q. When did that firing cease with reference to the calling of the roll?—A. I think the roll was about called—the roll was called and the firing was still going on. It ceased pretty shortly after the roll was called.

Q. Are you pretty clear about that?—A. Yes, sir.

Q. They got through calling the roll before the firing ceased?—A. I don't think they had got through, but they had got pretty much through calling the roll; according to my best judgment the firing ceased about when the roll was just finished calling. According to my best judgment the roll was called before the firing ceased. The firing was still going on, but it was not going on so rapidly as it was before.

Q. The firing a part of the time was quite rapid, was it?—A. Yes, sir; it was quite rapid when I was wakened up.

Q. What was the character of that firing?—A. Well, sir, I don't know hardly what was the character of it.

Q. Was it volleys?—A. Well, sir, it did not seem to me like volleys. It was kind of one shot after the other, something like that.

Q. That is, a sort of shooting at will, as you call it?—A. Yes, sir; shooting at will.

Q. About how many shots did you hear after you were wakened?—A. What did you say?

Q. About how many shots did you hear after you were wakened?—A. Well, sir, I don't know how many shots I did hear. I could not say.

Q. I would not expect you to give it exactly, but approximately—50, or 100, or 150, or 125, or whatever you think.—A. I guess between 80 and 100, something like that.

Q. There was a good deal of confusion just then, was there not?—A. Yes, sir.

Q. The men rushing downstairs?—A. Yes, sir.

Q. And getting their guns?—A. Yes, sir.

Q. You took your cartridges down with you, did you?—A. Yes, sir.

Q. How many rounds of cartridges did you have?—A. I had 20 rounds.

Q. Ball cartridges?—A. Yes, sir.

Q. Now, did you get any cartridges afterwards?—A. Afterwards; no, sir.

Q. Were any cartridges issued to you afterwards?—A. No, sir; I did not get any.

Q. Were not cartridges issued to the company after you got downstairs?—A. Yes, sir; I think there was cartridges issued to the company.

Q. Well, do you know?—A. Yes, sir.

Q. There were?—A. Yes, sir.

Q. Why didn't you get any?—A. Because I had 20 rounds.

Q. Then they only issued cartridges to those who did not have 20 rounds?—A. Well, I don't know, sir, whether it was that or not. All of them was supposed to have 20 rounds, and had it, but I guess some of them wanted more and was issued more. It was not convenient for me to carry more than 20 rounds. I had my 20 rounds in my box.

Q. Did you have the McKeever box?—A. Yes, sir. Some of them jumped and came downstairs so fast they did not get the ammunition that was up there.

Q. But having 20 rounds you had enough?—A. Yes, sir; I had 20 rounds.

Q. When you went to Brownsville from Fort Niobrara you went into barracks B, did you?—A. Yes, sir.

Q. Went in with your company?—A. No, sir; I did not go in with the company. I was detailed down to the station to unload some property.

Q. You went there that night, didn't you?—A. Yes, sir.

Q. Did you see any cartridges around B Company?—A. No, sir.

Q. No Krag cartridges?—A. No, sir.

Q. No Springfield cartridges?—A. No, sir.

Q. Any Springfield shells?—A. No, sir; I did not see any.

Q. That had been exploded?—A. No, sir.

Q. No Krag shells?—A. No, sir.

Q. Nothing of that kind?—A. No, sir.

Q. Did you ever go hunting?—A. No, sir; not in Brownsville.

Q. Did you at Niobrara?—A. I went hunting a couple of times, I think, at Niobrara.

Q. What did you take with you when you went hunting?—A. I did not have anything at all. I went along with a boy what was there before I was who was acquainted with the country. He had a gun—one of the company guns.

Q. You were not much of a hunter, then?—A. Well, I was not very much. I just went along mostly with him for company.

Q. He had one of the company guns—what do you mean by that?—A. Well, the company gun was what the men hunt with—a shotgun like.

Q. Have any cartridges?—A. Yes, sir; he had some cartridges—he had shells.

Q. What kind of shells?—A. I could not describe them to you. They was the same as these shells you use in breechloader guns.

Q. The same as you shoot out of the Springfield?—A. No, sir; they were shells with small shot in them—for birds and like that.

Q. How many of those guns were there?—A. Where—at the company?

Q. Yes.—A. I don't know, sir, how many there was. One is the only one I saw.

Q. Were you ever out hunting with anybody else?—A. No, sir; he was the only one I was out with.

Q. It was customary for the men to go hunting, was it not?—A. Yes, sir; it was customary for them to go hunting.

Q. What would they take when they went out hunting?—A. They would take their guns.

Q. Wouldn't they take their own guns?—A. If they went out on hunting trips sometimes the officers would give them permission to carry the gun what they used.

Q. Isn't it a fact that they did that frequently?—A. Well, sir, not frequently. They only could get to go about once a year or something like that, out on hunting trips. Of course they might get the company gun and jump out and go hunting, most any time.

Q. And they got their cartridges where?—A. From the quartermaster-sergeant.

Q. When they went hunting?—A. Yes, sir.

Q. But when they would have their regular guns, where did they get the cartridges?—A. You are supposed to have 10 rounds. They was supposed to have 10 rounds. They did not carry them for shooting at all. I guess they just simply carried that for protection. They would always get some shotguns to go hunting with.

Q. But when they went in hunting parties, they would take the guns of the company, I suppose?—A. Yes, sir.

Q. The rifles?—A. Yes, sir.

Q. What cartridges would they take then?—A. They would take the cartridges what was supposed to be fired in them.

Q. That is your regular Springfield cartridges?—A. Yes, sir.

Q. Where would they get those cartridges?—A. Well, them shells what they was issued, the 10 what they was issued.

Q. Would 10 rounds be enough for a man to go out hunting with?—A. It was not their intention to use them. They carried the other ammunition and guns with them for to hunt with.

Q. Just carried their rifles along?—A. Yes, sir.

Q. Just for protection, and carried other guns for hunting purposes?—A. That was the way they went hunting there in Niobrara the time I was there. Of course, I was not there very long. I had not been in the service but a short while.

Q. You had been there how long?—A. I had been in the service

at that time, I guess, about a year and three months; something like that.

Q. When the parties would go out hunting, how many would go in a hunting party?—A. Well, sometimes, I think, the company commander would excuse as many as eight, or something like that.

Q. Eight?—A. Yes, sir.

Q. Well, when eight went out in a hunting party they would take their regular rifles, wouldn't they?—A. I don't know, sir, whether all of them taken them or not. There was some of them would. Of course, I only remember them going one time.

Q. And take the regular ammunition?—A. Yes, sir.

Q. How would they get that ammunition?—A. The 10 rounds was issued to them, what they used every day for drill. The captain would give them permission to carry that with them.

Q. And use it?—A. No; they were not supposed to use that at all.

Q. Then, when they took the Springfield rifle along, what ammunition could they use in the Springfield rifle, if they did not use that?—A. They taken that ammunition along, and the Springfield rifle, but they carried another gun and ammunition for it; and that was the gun they used.

Q. Just used that one gun?—A. Yes, sir; they did not use the Springfield at all.

Q. So if a party of seven or eight went out, they would take only one shotgun?—A. No, sir; they all had guns; they all carried guns to kill the game with.

Q. Did they all carry shotguns?—A. Yes, sir.

Q. What did they take along the Springfield rifle for?—A. They carried them along for protection, I guess. That is the only reason I know that they carried them along.

Q. Would each man carry two guns?—A. If he wanted to, he could. If he could get permission to carry the gun with him, why he could carry it.

Q. But he would take a shotgun along also?—A. Yes, sir; he would carry a shotgun. That is what he intended to hunt with.

Q. Oh, yes; and just take the rifle along for protection.—A. Yes, sir; I suppose that is what he carried it for.

Q. You are quite clear about that, are you, Mr. Wilson?—A. Yes, sir.

Q. When you fell in that night where did your company fall in for roll call?—A. It fell in at the usual place where they fell in for all roll calls, right in front of the barracks?

Q. And what was your position in the ranks—that is, with reference to the right or left of the company?—A. You mean that night?

Q. Yes.—A. I was rather to the left of the company that night.

Q. To the left?—A. Yes, sir.

Q. That is, you mean, taking the center of the company you were to the left of the center of the company?—A. Yes, sir.

Q. How many men were there that night?—A. In line?

Q. Yes.—A. I don't know, sir.

Q. Have you any idea?—A. No, sir; I don't have no idea how many men was in line.

Q. Were there 40?—A. I don't know, sir, whether there was 40 or not. I guess there was. I don't know what number of men was in line.

Q. You know nothing about that?—A. No, sir.

Q. But if there were 40 men in line there would be at least 20 men or more to your right when you fell in there?—A. Well, when I fell in it was rather to the left of the company, but men were falling in on both sides all the time.

Q. But when the company was formed?—A. When the company was formed I was to the left.

Q. How near the extreme left of the company?—A. Well, there was about five or six men, I guess, on the left of me—four or five or something like that.

Q. Where was Taylor?—A. Taylor was to the right of me.

Q. He was up to the right of the company, was he?—A. Yes, sir; he was along to the right of the company.

Q. About how many files between you and Taylor would you say?—A. Well, sir, I don't know.

Q. Ten, twelve, or fifteen?—A. There was about seven or eight files—something like that, I guess.

Q. Who was next to you at your right?—A. I can't remember who was next to my right or left, either one, just to say personally who they was.

Q. You can't tell who they were?—A. No, sir.

Q. But you know your position in the company, and you know Taylor's position?—A. Yes, sir; Taylor was to the right of me.

Q. Now, inspection was had—did you have guard mount the next morning, the morning of the 14th?—A. Yes, sir.

Q. Had regular guard mount?—A. No, sir; it was not regular guard mount that morning. It was not like the other guard mounts had been, because they mounted the whole company that morning.

Q. Well, was it guard mount for the whole company?—A. Yes, sir; guard mount for the whole company.

Q. Because guard mount may be of two or of a hundred men, may it not?—A. Yes, sir.

Q. It depends upon the number who are to be on guard?—A. Yes, sir; if they need that many.

Q. Were your guns inspected for guard mount?—A. Well, we fell out for drill. We were not expecting to have inspection. We fell out for drill, but it was inspection instead of drill.

Q. I am speaking of the guard mount. Was there guard mount for that inspection in the morning?—A. Yes, sir.

Q. That is what I am talking about, confining it to that now. How were your guns inspected then?—A. They were inspected by Lieutenant Lawrason.

Q. Let us understand. How many inspections did you have that morning?—A. There was two inspections that morning.

Q. You had reveille?—A. Yes, sir.

Q. When you got up, didn't you?—A. Yes, sir.

Q. You got your breakfast and then you went out to what was supposed to be the regular company drill?—A. Yes, sir.

Q. Morning drill?—A. Yes, sir.

Q. And you had an inspection then?—A. Yes, sir.

Q. Who inspected the company then?—A. Lieutenant Lawrason.

Q. And after that inspection was over, then you were ordered out on guard duty?—A. Yes, sir.

Q. Then you had another inspection, did you?—A. No, sir; I did not.

Q. Did the company?—A. Some portions of it did.

Q. Am I mistaken in understanding you to say that you had two inspections that morning?—A. I say the company had two inspections. I was only inspected once.

Q. What do you mean by the company having two inspections?—A. Well, I said portions of the company had two inspections.

Q. Portions had two inspections?—A. Yes, sir. I was only inspected once.

Q. You say now portions of the company. How did Lieutenant Lawrason inspect the guns? That is, what did he do?—A. Why, he inspected closer that morning than I ever known him to inspect before.

Q. I know, but we are not soldiers. You say he inspected closer than ever before, but we do not know anything about that. Tell us what he did?—A. Do you mean what position he held the gun in?

Q. What did he do?—A. He took the guns, took the bolts out, looked at the chamber, looked down into the barrel, looked all around where the striker is, and different places in there. I don't know just the names of all parts of the gun.

Q. Then what did he do?—A. He passed you by after he inspected you.

Q. Did he use the gun rod?—A. Not with my gun.

Q. Did he with any of the guns, as far as you saw?—A. I don't understand you.

Q. Did he use the gun rod on any of the guns, as far as you saw?—A. No, sir; I did not see him use any gun rod on them.

Q. Do you remember the number of your gun—not the gun-rack number, but the number by which it was charged to you in the company?—A. Yes, sir; I had kind of forgotten the number, but after my memory was refreshed, then I remembered it very well.

Q. When was that? When was it refreshed to your memory?—A. That was since I have been here.

Q. But aside from that you would not remember the number of your gun?—A. No, sir; I could not have told the exact number of it, but after my remembrance was refreshed, it came just naturally to me. As soon as they spoke it, why, then I could tell.

Q. You were out in town in Brownsville, I think you said, once or twice a week while you were there?—A. Yes, sir.

Q. I think I have asked you about that. You were treated well?—A. Yes, sir; I was treated well. I wasn't mistreated by anybody.

Q. Does a company have any surplus ammunition?—A. No, sir.

Q. It has none?—A. It has none, to my knowing. I didn't know so very much about what the company had, about surplus ammunition, because I hadn't been in the service long enough to know about such things.

Q. A man sometimes bucks for orderly, doesn't he?—A. Yes, sir.

Q. That is, you mean by that to have his arms and accouterments in a little better shape than anybody else, and therefore be selected as an orderly?—A. Yes, sir.

Q. And thereby avoid guard duty and fatigue duty?—A. Yes, sir.

Q. Did these parties that bucked for orderly have extra ammunition?—A. No, sir; not to my knowing. You had to go to work and clean up the ammunition you had.

Q. Then if it was so that those men would have 10 extra rounds of ammunition, one that they would call for a fine day and one for a rainy day, bad weather, it was something that you would not know anything about, in connection with bucking for orderly?—A. What did you say?

Q. I will ask you the question differently. You do not know of any person having extra ammunition bucking for orderly?—A. No, sir.

Q. Did you ever buck for orderly?—A. Yes, sir; I have bucked for orderly.

Q. The next day—when I say the next day I mean August 14, the day after the shooting up of Brownsville—you heard it charged that soldiers had shot up the town, did you not?—A. Yes, sir.

Q. What investigation did you make about it?—A. What investigation did I make?

Q. That is the question.—A. I didn't make any; no more than to ask around, "Do you know anything about this shooting?" or anything like that; and I didn't find out anything about it. It was a mysterious thing to me.

Q. Did you look to see if any of the shots had struck any place around the barracks?—A. Yes, sir.

Q. Or any of the buildings in the fort?—A. Yes, sir. I went out and looked.

Q. When did you look, Mr. Wilson?—A. I went out on the floor where our bunks was; I went out up on the top floor, and I looked around up there.

Q. That is, you mean the back porch of Company B?—A. Yes, sir.

Q. You looked over there?—A. Yes, sir.

Q. And you did not find any marks?—A. No, sir.

Q. Did you look any other place?—A. No, sir; I didn't look any other place.

Q. Were you with anybody that looked anywhere else?—A. Was I with anybody?

Q. Yes.—A. No, sir; I wasn't with anybody that did any inspecting and looking where the bullets had struck the quarters at all.

Q. The call to arms was going on when you awoke?—A. Yes, sir.

Q. And how long it had been going on you do not know?—A. No, sir.

Q. And you say when you woke up the firing was quite rapid and a good deal of shooting?—A. Yes, sir.

Q. Could you tell us, Wilson, about how many you think were engaged in that shooting?—A. I don't know, sir, anything about that; I couldn't tell—

Q. Could you form any idea?—A. No, sir; I couldn't form any idea whatever.

Q. How many there were?—A. No, sir.

Q. Or whether the shooting was toward or from the barracks?—A. No, sir; I couldn't tell that, either.

Q. Only as you say you presumed it to be, when you heard it, about the mouth of Elizabeth street, as I understood you?—A. I don't know about the mouth of Elizabeth street; between B and D Companies.

Q. Down that street?—A. Yes, sir.

Senator WARNER. I do not care to ask anything further.

By Senator FORAKER:

Q. Just one or two questions. I understood you to say that you are not a drinking man?—A. No, sir.

Q. You did not visit any of the saloons in Brownsville?—A. No, sir; I didn't visit any of them saloons down there at all.

Q. So that you were not refused any accommodations down there?—A. No, sir; I wasn't refused any accommodations.

Q. And you had no grievance of that kind?—A. No, sir.

Q. About hunting; you have said that you went hunting once while at Niobrara. At what season of the year did they go hunting there?—A. It was generally in the fall when they went hunting—duck hunting.

Q. When did you get the Springfield rifles?—A. It wasn't Springfield rifles that they had with them.

Q. It was before you got your Springfield rifles?—A. It was those other rifles.

Q. The Krag-Jørgensen rifles?—A. Yes, sir.

Q. That was in the fall, then, perhaps, of 1905?—A. Yes, sir.

Q. The Springfield rifles were issued to you the middle of April, 1906, and you left Niobrara in July, the latter of July, 1906. Was there any hunting done there, Corporal, that you knew anything about, after the Springfield rifles were issued to you and before you left Fort Niobrara?—A. No, sir; not that I know of; there wasn't any hunting done after those rifles were issued.

Q. There was none done at all?—A. No, sir; because they were issued just in time to commence target practice; and as soon as target practice was over and we went away from there.

Q. You spoke about some of the men in your company being inspected twice. I will ask you if you did not refer to the inspection of the company, first by Lieutenant Lawrason, and then a reinspection of some of the men who he stepped out for reinspection? I will ask you if that was what you referred to?—A. Yes, sir.

Senator WARNER. I assumed that it was.

Senator FORAKER. Yes; that is all.

By Senator SCOTT:

Q. You say you looked to see if you could see any marks of bullets on the barracks?—A. Yes, sir.

Q. Was it your impression that the shooting was being done at the barracks, at the fort?—A. Yes, sir; that was my impression.

Q. Was that the impression of the other men in the company?—A. I don't know, sir, what was the impression of the other men. I am just telling you what my impression was.

Senator SCOTT. That is all.

By Senator WARNER:

Q. When did you get the impression that the shooting was at the barracks?—A. When I was wakened up it was being hollered: "Get up, get up, get up; the post is being fired on," and that is how come me to have that impression.

Q. Did you form any idea then as to which way the shooting was?—A. Yes, sir; I formed an idea. I told you where I thought I heard the shooting at.

Q. Were there quite a number calling out, "Get up, get up; the post is being fired upon?"—A. The man in charge of quarters was hollering when I waked up. I was principally woken up by George Conn. He slept right over on that side; his bunk was just opposite to mine, and he had jumped up and run over by my bunk, and was getting on his clothes behind a chimney, kind of, around there.

Q. I asked you if there were not quite a number calling out to get up, and that the post was being fired upon?—A. There wasn't so many calling out; but there was such a rumbling and tumbling in the quarters of the men getting up and getting on their clothes.

By Senator SCOTT:

Q. What did this man get behind a chimney for?—A. Dodging the shots.

Q. Dodging the shots?—A. I guess that was his idea. As soon as I could jump out of bed I was getting on my clothes, and he was behind this little chimney, like that [indicating].

By Senator FRAZIER:

Q. Did you get behind the chimney, there?—A. I didn't, because it was only about that wide, and there was only room for one to get behind there; but I got behind my bunk, as close as I could.

Q. Were there any shots going around there?—A. No, sir.

Q. You did not hear any?—A. I don't know what direction the shots were going. I could hear them, of course, when the reports would go. I didn't know which way the shots were coming, and naturally I would be trying to dodge them.

By Senator FOSTER:

Q. You did dodge that night quite a little, didn't you?—A. Yes, sir; I got down as close as I could get to get on my clothes.

Q. You crouched down on the floor?—A. Yes, sir.

Q. Down on your knees?—A. Yes, sir; I was down lower than that; I was sitting down on the floor.

Q. Sitting right down on the floor?—A. Yes, sir; I got down sideways and put on my clothes.

Q. Did you put on all your clothes that way?—A. I didn't put them all on; I put on just enough to fall in.

Q. Were the rest of the men down on the floor, too—a good many of the rest of them there?—A. I wasn't paying very much attention to any of the rest, about how they were getting on their clothes.

By Senator FORAKER:

Q. You answered Senator Warner in one instance about the location of the firing, the location you thought it was, as though you thought it was somewhere about the mouth of Elizabeth street; and

another time you said that it was in the rear of the barracks, about opposite between C and B barracks?—A. I said between D and B.

Q. I misunderstood you?—A. You misunderstood me, sir.

Q. You think that it was down there on Elizabeth street?—A. To the best of my judgment, the reports was there—down on Elizabeth street, right out of the gate.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF SERGT. MAJ. SPOTTSWOOD W. TALIAFERRO, U. S. ARMY (COLORED).

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Are you in the military service of the United States?—A. I am, sir.

Q. What is your position and in what organization?—A. I am battalion sergeant-major of the Twenty-fifth U. S. Infantry, sir.

Q. Were you serving with that battalion in that capacity while it was at Fort Brown, at Brownsville, Tex.?—A. I was, sir.

Q. Last year?—A. Yes, sir.

Q. You have not been discharged?—A. No, sir.

Q. You are still in the service?—A. Yes, sir.

Q. How long have you been in the service?—A. I am in my twelfth year of continuous service, sir.

Q. In what regiments have you rendered that service?—A. All in the Twenty-fifth Infantry, sir.

Q. What companies of that regiment have you been a member of?—A. Company C, sir.

Q. All the time in Company C?—A. Until I was made battalion sergeant-major.

Q. When were you made battalion sergeant-major?—A. May 9, 1906.

Q. Where were you at the time?—A. At Fort Niobrara, Nebr.

Q. And you have held that position ever since?—A. Yes, sir.

Q. You held that position on the night of August 13, 1906?—A. Yes, sir.

Q. When this firing occurred?—A. Yes, sir.

Q. Where were you that night?—A. I was in the administration building, sir, in my room.

Q. Were quarters assigned you in the administration building after you became sergeant-major?—A. Yes, sir.

Q. You were in your regular quarters?—A. Yes, sir; in the administration building.

Senator FORAKER. Now, there is a map to the left of you, Sergeant. I wish you would look at it, and Senator Scott will explain it to you.

(The map was explained to the witness by Senator Scott.)

By Senator SCOTT:

Q. Where were your quarters?—A. My room was on this side of the hallway. There is a hallway here, and the officers are here, and my room is on this side.

Q. Then, as you went in your room was to the right?—A. Yes,

sir; my room is situated to the right as you face the building, to the right of the hall.

(The map was further explained to the witness by Senator Scott.)

By Senator FORAKER:

Q. Now, Sergeant, you were in your quarters, I understand you to say, when this firing commenced?—A. Yes, sir.

Q. Were you asleep or awake?—A. I was asleep, sir.

Q. You had gone to bed. About what time did you retire that night?—A. I think it was not quite 11 o'clock.

Q. You were awakened by what, if you can tell?—A. A single shot.

Q. A single shot?—A. Yes, sir.

Q. Where was that shot fired from, as nearly as you could locate it?—A. Well, it impressed me as if that shot was fired somewhere over in this direction, somewhere over here. I couldn't say any more definite than that. Somewhere in that direction there [indicating on map].

Q. A single shot?—A. Yes, sir.

Q. Did you think that was the first shot fired?—A. I couldn't say, sir.

Q. The barracks were between you and the place where that shot was fired?—A. It impressed me that way, sir.

Q. Then what did you do when you heard that shot?—A. I raised up and listened. I didn't get up at first; I didn't think it was necessary to get up for a single shot. I waited to see if I would hear any more, and in a few seconds I heard quite a number of shots, and then I jumped out of bed and commenced to dress myself as fast as I possibly could.

Q. Before you go further, about where would you locate those shots, as nearly as you could, from the sound that came to you?—A. They seemed to be coming from along down in the same direction, there [indicating on map].

Q. Somewhere behind the barracks?—A. Yes, sir.

Q. Could you tell whether they were inside or outside of the wall?—A. I thought they were outside. I couldn't tell whether they were inside or outside of the wall, but I thought they were outside, sir.

Q. You were still in your room in the administration building?—A. Yes, sir.

Q. Was the window up?—A. The window was open; yes, sir.

Q. So that you could hear the shots distinctly enough?—A. Yes, sir.

Q. What did you do when you got dressed?—A. When I got dressed I went to the commanding officer's quarters as rapidly as I could run.

Q. That is Major Penrose's quarters?—A. Yes, sir.

Q. Locate on the map as nearly as you can where Major Penrose's quarters were?—A. They were the last set of quarters, right there [indicating on map].

Q. Right down there?—A. Yes, sir.

Q. What did you go there for?—A. Because I wanted to notify the commanding officer of this disturbance. And call to arms had been sounded, and the firing was going on rapidly, and the yelling.

it seemed to me to indicate that it was a serious trouble. There was a man, it struck me, that was out somewhere near that gate leading into Elizabeth street, yelling, and I could hear the reports of hostile guns, reports of guns with which I wasn't familiar, and this man was yelling "I want all of you; I want all of you." Three times I heard that, in a distinct voice, and the reports following; after each yell would come a report. I was, of course, excited and didn't know what really to think. I thought it was a hostile body.

Q. Stop there just a minute. You heard the call to arms sound before you left the administration building, or after you left it?—A. Before I left; while I was dressing.

Q. While you were dressing you heard the call to arms sound?—A. Yes, sir.

Q. Where was that sounded?—A. From the guardhouse, sir.

Q. Can you state whether or not that call to arms from the guardhouse was repeated by the trumpeters at the barracks?—A. I could not. I couldn't tell whether it was repeated or not.

Q. You do not remember?—A. No, sir; every sound of the call to arms I heard seemed to come from the guardhouse.

Q. When was it you heard this man crying out in this way—before you left the building?—A. Yes, sir; before I left the building.

Q. Before you got out of the building?—A. Yes, sir.

Q. Then you went to Major Penrose's quarters?—A. Yes, sir.

Q. Did you find him there?—A. No, sir.

Q. He had gone. What did you do then?—A. I went then from there to the guardhouse, and I was trying to look for him all the way. I didn't know but what he had gotten the battalion out. I didn't know how long the disturbance had been going on, and I was looking around to see if I could locate him or any of the men or anything; so I went on to the guardhouse, keeping all the while on the low ground and throwing the high ground between me and the firing, at the same time.

Q. Is there some high ground there?—A. Ground high enough to protect a man from bullets if there were any coming in that direction.

Q. Where is that high ground? We have been told there is none, that it is all practically level there.—A. Yes, sir; but there is a moat leading from Major Penrose's quarters towards the hospital and the guardhouse, and I suppose the embankment up against this moat was 2 feet, or something like that; so that by crouching low and keeping low one would be protected from fire. I followed that moat on around and got to the guardhouse, and inquired of the corporal of the guard—

Q. Now, before we get to that inquiry, did you at any time, either while you were still in the administration building or while you were on your way to Major Penrose's quarters or while you were on your way from Major Penrose's quarters to the guardhouse, hear any bullets?—A. No, sir; I didn't hear a bullet. No, sir; I didn't hear any bullets.

Q. You simply heard the shots?—A. I simply heard the reports of those guns and the yelling I have spoken of.

Q. Could you tell in what direction those guns were being fired?—A. No, sir; I could not.

Q. Now, you came to the guardhouse. Whom did you see there and what did he say?—A. I saw Corporal Wheeler and Sergeant Reid.

Q. Sergeant Reid was the sergeant in command of the guard that night?—A. Yes, sir.

Q. What was he doing?—A. He wasn't doing anything when I saw him. When I left the guardhouse, he left with me, going up to look for the commanding officer.

Q. To look for his commanding officer?—A. No, sir; I don't know what his errand was.

Q. I am only asking you what you said. I did not understand you.—A. I was looking for the commanding officer.

Q. And he was with you?—A. He started with me up the parade ground.

Q. And did he go with you?—A. He went with me until I met Lieutenant Grier, and I asked Lieutenant Grier where I could find Major Penrose.

Q. Where did you find Lieutenant Grier?—A. I found him about opposite C Company's barracks.

Q. What did he seem to be doing?—A. He seem to be about to take charge of C Company. At least, he was going in that direction, and I thought he was going to take charge of C Company.

Q. Had Sergeant Reid left you?—A. Sergeant Reid left me about there. I don't know which way he went.

Q. Do you know whether he returned to the guardhouse?—A. I don't know. I didn't return to the guardhouse that night.

Q. When you got to the guardhouse, whom did you see besides Sergeant Reid and Corporal Wheeler?—A. I saw two privates lying prone in front of the guardhouse at an interval, as if it were the beginning of a skirmish line.

Q. Did you see any of the others?—A. I couldn't see any of the others at all.

Q. What were they doing in that position?—A. I supposed they had been placed there.

Q. Do you know whether or not the guard was placed in that way?—A. I don't know of myself, only as I saw these two men lying, as I say, about at an interval that the skirmishers lie generally on the battlefield.

Q. This was some time after the call to arms had sounded?—A. Yes, sir.

Q. Corporal Wheeler was there?—A. Yes, sir.

Q. Did you see any other corporal?—A. No, sir; Sergeant Reid and Corporal Wheeler were the only noncommissioned officers I saw.

Q. You only went in front of the guardhouse?—A. Yes, sir.

Q. You did not go in the rear to see if there were any guards stationed there?—A. No, sir; I didn't go in the rear of the guardhouse.

Q. You came down in front of C Company's barracks, and there you met Lieutenant Grier. Now, tell us all that occurred between you and him.—A. I simply asked him where I could find Major Penrose, and he says "You will find him to the right, there."

Q. To the right was toward B Company?—A. Yes, sir; and I went a few steps to the right and found Major Penrose.

Q. What was he doing?—A. He was standing on the parade ground, and seemed to be superintending the formation of B Company.

Q. Was he in front of B Company?—A. In front of the interval. I said to him, "Major, I report for duty." I said "I have no arms,

and I would like to arm myself." He says, "All right, go ahead," and I went in C Company to find the quartermaster-sergeant to get a revolver, and I couldn't find him, so that I asked the man in charge of quarters to give me a rifle and some ammunition, and he gave me a rifle and some ammunition, and I returned and reported to the major again near Elizabeth street.

Q. That was the company to which you had always belonged?—

A. That was the company to which I originally belonged, before I was promoted.

Q. And that was the reason that you went back there?—A. No, sir; I went there simply because that was the nearest company to me at the time.

Q. You, at any rate, got a gun from them?—A. Yes, sir.

Q. And then state what you did after you got this gun.—A. The main reason I went to this company was because almost all my ordnance and camp and garrison equipage belongs to that company and is on that company's returns, and they furnish me what I need and I return it to them.

Q. At any rate, you went there?—A. Yes, sir.

Q. And got a gun?—A. Yes, sir.

Q. Did you get any ammunition?—A. Yes, sir.

Q. From whom did you get the ammunition?—A. From the same party that gave me the rifle.

Q. That is the noncommissioned officer in charge of quarters?—A. The noncommissioned officer in charge of quarters. He told a private who was there—I think his name was Private Jefferson—to hand it to me.

Q. Was he noncommissioned officer in charge of quarters?—A. No, sir; Sergeant Brawner was noncommissioned officer in charge of quarters. He directed Jefferson to hand me this.

Q. Had the gun racks been opened at the time you got back there?—A. I didn't see the gun racks, sir. I was on the stairway, and the gun racks were upstairs. I didn't go upstairs. I simply went halfway up and received these things on the staircase.

Q. Then you reported to Major Penrose?—A. Yes, sir; then I reported to Major Penrose at once.

Q. You did not join any company?—A. No, sir; I did not join any company.

Q. You belong to the noncommissioned staff?—A. Yes, sir; I report to the major and follow him wherever he goes in action.

Q. Did you stay with him?—A. Yes, sir; I stayed with him. I only left him on his orders, when he sent me away, and returned and did not leave until I was dismissed.

Q. State what was the condition of the men when the formation of these companies was going on; whether they were excited or not?—A. They seemed to be excited, most all of them.

Q. What was their impression, if you know, judging from anything that was said by them, or from their actions either, as to who was doing this firing?—A. The general impression seemed to be that it was somebody outside of the fort, firing into the fort.

Q. Did you hear anybody inside of the fort at that time talking about the soldiers doing the firing?—A. No, sir; not a word.

Q. Now, you had been there all the time that the battalion had been at Fort Brown?—A. Yes, sir.

Q. Had you heard of any troubles that the men had, or any threats that the men were making against the people of Brownsville?—A. I had heard of no threats that the men were making against the people of Brownsville, at all.

Q. Were you entirely taken by surprise yourself when this firing occurred?—A. Well, I was taken partially by surprise. I couldn't say entirely by surprise, because I had heard that evening, between 5 and 6 o'clock, that there was some disturbance in the city.

Q. That is what I want to get at. What was it that you heard that afternoon between 5 and 6 o'clock?—A. While I was sitting at the supper table with Company C—I was attached to Company C for rations—Sergeant Wheeler came in and said: "All passes have been cut off, and the men are all ordered to be in barracks by 8 o'clock, and none allowed to leave after that hour." I said: "What is the matter?" He said: "It is reported that some soldier frightened a white lady on a horse down town, and the people are very angry, and there is likely to be trouble." I said: "I haven't heard anything of this. Where did you get your authority for that?" He said: "Captain Macklin was here a short while ago, and he told me these things."

Q. Captain Macklin was officer of the day?—A. Yes, sir; and also captain of C Company.

Q. I will ask you if you talked with anybody else or not before you went to bed?—A. Yes, sir.

Q. With whom?—A. The mail orderly.

Q. Who is he?—A. Private George W. Mitchell, of Company D, Twenty-fifth Infantry.

Q. What occurred between you and him?—A. He came up with the mail about 8 o'clock, or probably a few minutes after, and of course naturally I asked him if everything was quiet in town. He said no; that there was a crowd around the post-office that tried to engage him in a conversation concerning the newspaper reports of this assault on Mrs. Evans, and he said that he told them he didn't know anything about it, and tried to get rid of them as best he could, and they seemed to want trouble, and finally, just as he was leaving, one of them said to him, "It is a good thing that your commanding officer has ordered you all in to-night, because some of you were going to get killed to-night," and he said that he didn't guess they would do anything, and he guessed the killing wouldn't be all on one side, or something like that; and he related this thing to me, and I said to him, "You report that to the adjutant when you deliver the mail." He was assorting the mail at the time he told me these things.

Q. Do you remember whether he reported these things to the adjutant?—A. I was informed he did not.

Q. Who was the adjutant at that time?—A. Lieutenant Grier was acting adjutant.

Q. Do you know why he did not report it?—A. No, sir.

Q. Did you hear anybody else say anything about it?—A. About this disturbance?

Q. Yes; that night I mean?—A. The only other conversation I had concerning it was between myself and Sergeant Carlisle and Corporal O'Neil. They had been out in town rounding up the men, and I was walking along the walk, and I met them, and I said to

Sergeant Carlisle—I remember I said “I have received no orders not to go out of the garrison myself,” and——

Q. Stopping right there, now, you said you met them out in town rounding up the men while you were walking along the walk.—

A. No, sir; they had been out and had come back. This was on the walk in the garrison.

Q. About where in the garrison?—A. Just about opposite the vacant quarters.

Q. Is there a board walk running between the barracks and the parade ground?—A. In front of the barracks, between the barracks and the parade ground; yes, sir.

Q. And you were walking on that walk?—A. Yes, sir. This board walk extends beyond the barracks, as I remember it. It is a brick walk along down there, and then the board walk. The brick walk is continued by a board walk.

Q. You were in the reservation?—A. Yes, sir; on the board walk.

Q. Were you walking up toward the guardhouse?—A. I was coming up toward the guardhouse when I met them.

Q. Up toward the barracks?—A. Yes, sir.

Q. And you met them on that walk?—A. Yes, sir.

Q. Sergeant Carlisle and Corporal O’Neil?—A. Yes, sir.

Q. What was it they told you?—A. They were speaking of having been out in town, and notifying the men to come in, as it was the commanding officer’s orders that none of the men should remain out.

Q. They were out as a patrol?—A. Yes, sir; and I said, “I have received no orders not to go out of the garrison, and I am allowed to go out.” And I remember Sergeant Carlisle said, “We might make it hard for you to get back again,” or something like that.

Q. Did you go out?—A. I had no intention of going out at the time. I was just speaking of going out—just a chance remark.

Q. Just a chance remark?—A. Yes, sir.

Q. You did not go out?—A. No, sir; he just made that remark, that they might make it hard for me to get back.

Q. Did you hear of any of the men being displeased and hostile and forming a conspiracy to do violence to anybody in Brownsville before this firing at any time?—A. No, sir; I did not.

Q. Do you know who did this shooting?—A. I do not, sir.

Q. Did you have anything to do with it?—A. No, sir.

Q. You were not out there with your gun?—A. No, sir.

Q. You were not down in town that night at all?—A. No, sir.

Q. Do you know, have you any knowledge of, any facts that cause you to suspect anybody of participating in it that was connected with either of those companies?—A. No, sir.

Q. Have you told everybody at all times, when inquired of about it, all that you knew about it?—A. Yes, sir.

Q. You have not withheld any knowledge from anybody?—A. No, sir.

Q. And you have not been discharged?—A. No, sir.

Q. Nobody has made any complaint of you at any time?—A. No, sir.

Q. You did not hear any bullets?—A. No, sir.

Q. What did you do with that gun that you got?—A. I simply kept it until I was dismissed by the major, and then I returned it to

the quartermaster-sergeant of C Company and received instead a revolver, which is my proper arm.

Q. Was that the same night?—A. The same night; I returned it that same night, sir.

Q. When C Company was dismissed from duty, or when?—A. When I was dismissed from duty.

Q. When you were dismissed?—A. Yes, sir.

Q. You were with Major Penrose?—A. Yes, sir.

Q. Can you tell us when you were dismissed?—A. I don't know, sir, exactly the hour. It was probably some three hours or more after the disturbance.

Q. That would be along pretty well toward morning?—A. Yes, sir; pretty well toward morning.

Q. This firing was about midnight?—A. Yes, sir.

Q. You do not know what gun you had that night?—A. No, sir; I couldn't tell you.

Q. Did your gun have any injuries?—A. I didn't notice any on it at all. I didn't have any occasion to use it, of course, and so I didn't inspect it very carefully.

Q. You did not inspect it very carefully?—A. No, sir.

Senator FORAKER. I believe that is all I want to ask the witness now. I will look over his testimony, and then there may be something else.

By Senator SCOTT:

Q. Were you in Cuba during the Spanish-American war?—A. Yes, sir.

Q. Were you in any of the battles over there?—A. Yes, sir.

Q. Were you wounded?—A. No, sir.

Q. Have you been in the Philippine Islands?—A. Yes, sir.

Q. Have you been in any skirmishes over there?—A. No, sir; I wasn't in any of the engagements over there.

By Senator FORAKER:

Q. Do you know General Burke?—A. Yes, sir.

Q. Who was in command of your regiment for a time?—A. Yes, sir.

Q. You have known all of the commanding officers of the regiment since you have been in the service?—A. Yes, sir.

Q. How long have you been in the service?—A. I am in my twelfth year; I am completing my twelfth year—will complete it in June.

Senator FORAKER. That is all. I want to reserve the right to examine him further on direct examination, if it is necessary.

Senator WARNER. Certainly. We have never been bound by any of the strict rules in regard to the examination of witnesses.

The WITNESS. There was one other man I saw that night and had a conversation with that I did not mention. That was Corporal Madison. That was before the firing took place.

By Senator FORAKER:

Q. Where did that conversation occur, and what was your conversation with him?—A. That was on Washington street. I simply gave him the order of the commanding officer to return to the post by 8 o'clock.

Q. He was on Washington street?—A. Yes, sir.

Q. Looking at the map at your left there, Washington street seems to be the next street to—A. I am mistaken about its being Washington street. He was on the road, right in here [indicating on map]. I was thinking about that being Washington street.

Q. Was it just outside, there?—A. Yes, sir; just outside of the wall. It wasn't Washington street.

Q. How did you happen to give him that order? Was that when you were walking on the walk in the reservation?—A. No, sir; I was out of the garrison at that time.

Q. I asked you a while ago whether you were out that night at all, and I understood you to say "No."—A. That wasn't at night; that was in the daytime. That order was not to take effect before 8 o'clock.

Q. Before 8 o'clock?—A. Yes, sir.

Q. But after you had your supper with C Company?—A. That was after my supper; yes, sir; but still before 8 o'clock.

Q. After Sergeant Wheeler had announced the order to C Company?—A. Yes, sir.

Q. You were out there before 8 o'clock. What were you doing? Where were you going?—A. I was walking to a store up there.

Q. Where was that store?—A. There are two stores on the road there—one far up, a little Mexican establishment, and then one over on the other side.

By the CHAIRMAN:

Q. Were they facing on the road that goes along by the wall?—A. Yes, sir; right on the corner, the Mexican store is.

By Senator FORAKER:

Q. Did you have any trouble while you were in Brownsville?—A. No, sir.

Q. Did you go to this store to make purchases?—A. Yes, sir.

Q. Did you make them?—A. Yes, sir.

Q. You were waited on all right?—A. Yes, sir.

Q. You had no grievances against anybody?—A. No, sir.

Q. And you were walking there when you saw Corporal Madison?—A. Yes, sir.

Q. Had he not heard of the order?—A. No, sir; I do not think he had.

Q. What was he doing out there?—A. He was on pass, I think. In fact, he told me he was on pass.

Q. Did he return to the quarters?—A. I don't know whether he did or not. I simply remember seeing him on the road and mentioning the order to him.

Q. Did you hear about Mr. Evans coming to the fort and having a conference, in company with the mayor, with Major Penrose, the commanding officer, that night?—A. No, sir; not that night. I only heard about it since this disturbance, afterwards.

Q. Afterwards?—A. Yes, sir; the report.

Q. And what you heard, what you have related—A. Was all that I heard.

Q. (Continuing.) Caused you not to be altogether surprised when you heard the firing?—A. Yes, sir.

Q. What did you think when you heard the firing?—A. I thought it was the result of this disturbance that had been reported to me before dark.

Q. Had you heard anything from the men or about the men that led you to think that they would commence firing on the citizens?—

A. Not a word, sir; not a word.

Q. Your idea was that the citizens were infuriated by this story of the assault on Mrs. Evans and were firing on the fort?—A. Yes, sir; and the yelling, of course, made me think it was.

Q. Could you be mistaken about that voice?—A. I couldn't be mistaken, sir.

Q. You are positive?—A. I am positive about it, sir.

Q. Tell us just when it was, as nearly as you can, that you heard that voice crying out.—A. It was a very few minutes after the first shooting. Probably it was not more than a few minutes after the first shooting. I had not left the building, and I had been dressing as rapidly as I could.

Q. Was that before or after the call to arms sounded?—A. It was after the call to arms.

Q. After the call to arms. You heard that?—A. Yes, sir.

Q. And the firing was going on at the same time?—A. Yes, sir.

Senator FORAKER. That is all. I would like to have inserted in the record at this point the testimony of this witness given before the Penrose court-martial, as it appears at pages 760 to 796 of the record of that court-martial. I want that printed at this point in the record in full for convenience of reference.

(The testimony referred to, given before the Penrose court-martial, is here printed in full, as follows:)

Sergt. Maj. SPOTTSWOOD W. TALIAFERRO, Twenty-fifth Infantry, a witness for the defense, was duly sworn, and testified as follows:

DIRECT EXAMINATION.

QUESTIONS BY THE JUDGE-ADVOCATE.

Q. Please state your name, rank, and present station.—A. Spottswood W. Taliaferro; battalion sergeant-major, Twenty-fifth Infantry. Station, Fort Reno, Okla.

Q. Do you know the accused? If so, state who he is.—A. Maj. Charles W. Penrose, Twenty-fifth Infantry.

QUESTIONS BY THE ACCUSED.

Q. How long have you been in the service, Sergeant?—A. I am serving in my twelfth year continuous service.

Q. How long have you been battalion sergeant-major?—A. I was made battalion sergeant-major May 9, 1906.

Q. And from what grade were you promoted?—A. From first sergeant, Company C, Twenty-fifth Infantry.

Q. How long had you been first sergeant of Company C, Twenty-fifth Infantry?—A. Since June 18, 1898.

Q. And previous to that where had your service been and in what capacity?—A. I had served as a sergeant in Company C and as a private in Company C all the rest of the service.

Q. Do you recall how long you had been a sergeant?—A. I was a sergeant thirty days, about.

Q. How long had you been a corporal before that?—A. I was never a corporal.

Q. Did you go with your battalion from Fort Niobrara, Nebr., to Fort Brown, Tex.?—A. I did, sir.

Q. And you arrived there when?—A. July 28, 1906.

Q. And you served with the battalion during the time of its stay at Fort Brown and Brownsville, Tex.?—A. I did, sir.

Q. You are not a married man, Sergeant?—A. I am not, sir.

Q. Where were you quartered at Fort Brown?—A. In the administration building.

Q. Whereabouts in the administration building was your sleeping room? Give it by the points of the compass, or show us by the plat over there, if you can.—A. It was to the north of the hallway, sir (indicating on map). The hallway is right here and my room is to the north. This is the hallway, the sergeant-major's office here, and my sleeping room on the other side of the hall, right here.

Q. So that your sleeping apartments were on the north side of the administration building?—A. Yes, sir; north side of the hallway, facing on the parade.

Q. You were in Fort Brown on the 13th and 14th of August?—A. Yes, sir.

Q. Were there any unusual orders given that day, Sergeant, that came to your notice, in regard to the command?—A. No direct orders to me.

Q. Did you hear of any orders that effected the command on the 13th?—A. I did, sir.

Q. At what time and how did this notice, this order, come to you?—A. It was while at supper, between 5 and 6 o'clock, that Sergeant Harley, acting first sergeant of Company C, told me that all passes had been countermanded and the men ordered to be in barracks about 8 o'clock. I asked him what was the cause of this order, and he said it was reported that some soldier had frightened a white lady on a horse downtown.

Q. Did you understand by this order that the men were to remain in the post after being in at 8 o'clock?—A. I did, sir.

Q. Was that stated to you specifically?—A. It was not, sir. Only gathered from the statement he made.

Q. That the men were to be in at 8 o'clock and remain in?—A. That nobody was to be allowed out—that was stated specifically—after 8 o'clock.

Q. When did you say you first heard this?—A. It was between 5 and 6 o'clock.

Q. And where were you when you heard it?—A. At supper. C Company's—

Q. Did you take your meals with C Company?—A. Yes, sir.

Q. Did you hear any confirmation of this order afterwards? If so, under what circumstances?—A. In returning to the adjutant's office I passed near Company B and Company D. These companies were on retreat at the time and I heard the first sergeants saying something to those men about not being allowed out after 8 o'clock and also saying something to the noncommissioned officers about going out into the town and rounding up the men.

Q. You heard that they were to send out noncommissioned officers to round up the men?—A. Yes, sir.

Q. Where did you go then?—A. I went to the adjutant's office.

Q. And how long did you remain there and what were you doing?—A. I had some work to finish. I remained there probably an hour and a half or nearly two hours, it might have been—not quite two-hours. No; I don't know exactly how long I remained there. It wasn't very long.

Q. Going back to this order—did the acting first sergeant, Sergeant Harley, of C Company, give you the source of the order or from whom he got it?—A. He told me that Captain Macklin had given him the order.

Q. Where did you go when you left the adjutant's office, Sergeant—the administration building?—A. I walked down to the barracks, and from the barracks I walked out up the street that separates Fort Brown from Brownsville.

Q. Yes. Did you meet anyone on that street?—A. I met Corpl. Charles H. Madison, of Company C.

Q. Did anything special occur in connection with him?—A. He wanted to borrow some money from me, and I told him he didn't need any money, because the commanding officer had ordered all the men into the garrison, passes to the contrary notwithstanding. Told him he would have to be in by 8 o'clock according to the order.

Q. Speaking of money, reminds me; when did pay day occur with respect to this time?—A. I think pay day was on the 11th, if I am not mistaken.

Q. Do you remember the day of the week?—A. No, sir; I do not.

Q. Well, what else did you do, Sergeant?—A. I returned to the fort and later in the evening I was walking between the guardhouse and the vacant building and I met Sergeant Carlisle and Corporal O'Neil. They had been out in the town of Brownsville rounding up the men, and we had a conversation concerning the reported disturbance of the town.

Q. Do you remember anything about this conversation?

By the judge-advocate:

We shall have to object to hearsay evidence, may it please the court.

By counsel:

We withdraw that question—will lay no stress on it.

Q. What did you do then, Sergeant?—A. I returned to the adjutant's office.

Q. Did you see anyone else that night?—A. I saw Private George Mitchell, the mail orderly, when I returned to the adjutant's office—came up with the mail.

Q. What time did you go to sleep that night, Sergeant?—A. I think it was shortly after call to quarters.

Q. Were you disturbed after that, Sergeant?—A. Yes, sir; I was aroused by a shot.

Q. Tell us what you did when you were aroused by a shot.—A. When I heard the first shot—it was a single shot—I simply raised up to listen; in a few seconds I heard quite a number of shots; then I jumped out of bed and commenced to dress myself as rapidly as possible, and while dressing, call to arms sounded. The shooting continued to increase, and it seemed to be growing nearer to me gradually,

and the shooting not only increased, but I heard the yelling, and it seems that the leader of the parties who were shooting had, just before I got through dressing, had reached the gate which leads out to Elizabeth street, in rear of B Company quarters, and I remember distinctly hearing one man yell three times distinctly, "I want all of you; I want all of you," and it seems that this man was shooting a gun which had a heavy, dull sound. I hurried dressing as rapidly as I could; put my belt on and ran to Major Penrose's quarters. Major Penrose was not at his quarters.

Q. Why did you go to Major Penrose's quarters?—A. Because the disturbance in the garrison, and the call to arms had been sounded.

Q. Was that your orders, to report to the commanding officer under such circumstances?—A. I understand that to be my orders; under all unusual circumstances to report to the commanding officer.

Q. Go on.—A. I went to Major Penrose's quarters, and did not find the major there, and went to the guardhouse. I inquired of the corporal of the guard for the commanding officer; he said he had not seen him.

Q. Who was this corporal of the guard?—A. Corporal Wheeler, of Company D.

Q. Go on.—A. I asked then for the officer of the day and he said he hadn't seen him, and then I left the guardhouse and went up to—

Q. Before you leave the guardhouse. Did you see any other non-commissioned officer of the guard at that time?—A. Sergeant Reid, the sergeant of the guard, was there also. I asked him also for the commanding officer and the officer of the day and he hadn't seen either.

Q. Did you see any members of the guard?—A. I saw several members of the guard lying prone in front of the guardhouse, in line of skirmishers.

Q. Was shooting going on at this time?—A. Yes, sir; the shooting was still going on.

Q. Did you see anyone else near the guardhouse at this time?—A. I saw a private of B Company; he was standing under the porch near the post exchange; under the porch of the post exchange, and he approached me and spoke to me and asked me what was the disturbance.

Q. Do you know who that was?—A. I knew his face at that time; learned afterwards his name; it was Private Harden.

Q. Where did you go then Sergeant?—A. I went up the parade ground, and near the middle of the parade ground, about opposite C Company, I met Lieutenant Grier and asked him for the commanding officer.

Q. Do you know anything about the movements of Sergeant Reid about the time you were at the guardhouse? If so, tell the court.—A. Sergeant Reid and myself went together up the parade ground when I was in search of the commanding officer.

Q. Do you know where he went?—A. I don't know. When I saw Lieutenant Grier I left him and asked Lieutenant Grier which way was the commanding officer.

Q. You found Major Penrose?—A. Yes, sir.

Q. Where was he at that time?—A. He was about opposite the interval of the barracks occupied by Companies C and B.

Q. What did you do when you reported to the major?—A. I reported to the major and said that I have no arms, I would like to go into some of the barracks and secure a revolver. The major said to me all right.

Q. And what next?—A. I went into C Company barracks and asked for the quartermaster-sergeant; he couldn't be found and Sergeant Brawner, who was in charge of quarters, told one of the men to give me a rifle and some ammunition.

Q. Where were you and where was Sergeant Brawner at this time?—A. Sergeant Brawner was at the head of the steps and I was standing on the steps about midway.

Q. That is the steps?—A. Leading from the downstairs squad room up to the upstairs squad room.

Q. What did you do then?—A. When I got the ammunition and gun I returned at once and reported to the commanding officer, Major Penrose.

Q. And where was he?—A. He was around at the wall near the gate that leads into Elizabeth street.

Q. Where was C Company?—A. C Company had gone around to the wall. All of the companies had gone around to the wall when I came out.

Q. Where was Major Penrose, as near as you can recall, when you reported to him?—A. When I reported after securing the rifle?

Q. Yes.—A. He was around at the wall near the gate which leads out into Elizabeth street.

Q. Go back to this man Private Harden. What occurred in connection with him that fixes the fact in your mind?—A. He approached me and said something about the disturbance and said he wanted to go down there and I told him, "No, you stay here."

Q. How was he dressed, do you recall, Sergeant?—A. I think he was dressed in pajamas. I think he had on his hospital clothes. He was sick, a patient in the hospital at the time.

Q. What occurred when you reported to Major Penrose there at the gate?—A. The major was standing in rear of the command, and I heard him give the order not to fire a shot until I give the command.

Q. Did he give you any order at this time or about this time?—A. In a few minutes he gave me the order to go and find Captain Macklin and tell him to report to him at once.

Q. Did you find Captain Macklin?—A. I did not, sir.

Q. What did you do then?—A. I returned and reported to the commanding officer I couldn't find him.

Q. Was the commanding officer still at this place near the gate?—A. He had moved down toward—probably 50 yards down below—toward the end of the skirmish line.

Q. Which way, Sergeant?—A. Toward C Company barracks.

Q. Did you hear Major Penrose give any other orders during this time?—A. Not just at that time.

Q. You saw those men on the line, did you, by the wall?—A. Yes, sir.

Q. Did they remain there all the time?—A. D Company was detached and sent to make a patrol through the town.

Q. Were you close enough to hear the orders given to the company commander or not?—A. I did not hear all the order. I simply under-

stood him to say to Captain Lyon, "Take your company and go down through the town and see what you can find out."

Q. Were you there when this company returned?—A. I was, sir.

Q. Who was with it?—A. The mayor and his brother.

Q. Did you hear any conversation between the mayor and Major Penrose?—A. I did not, sir.

Q. Did you see them together?—A. Yes, sir; the mayor called the major off aside and spoke to him privately.

Q. Did you hear any conversation at this time on the part of his brother?—A. I did, sir.

Q. What was that?—A. I heard him say that "I jumped this bunch because I thought it was a band of Mexicans making a raid through the town." I heard him also say that he and his brother had just been speaking to a mob of 300 and persuaded them to disperse and go home.

Q. Is that all you heard him say at that time?—A. That's all I can recall.

Q. Did you hear Major Penrose give any orders to the command shortly after Mayor Combe came out with D Company?—A. Yes, sir; I heard him give the order to the command for the rolls to be called in all the companies.

Q. Were these rolls called, as far as you know?—A. Yes, sir.

Q. How long did you remain there after this, Sergeant?—A. I remained with the major until I was dismissed.

Q. About when was that?—A. I should judge it to be about two hours or two hours and a half.

Q. What did you do when you were dismissed?—A. I went to C Company's barracks and went to sleep. I didn't return to the administration building.

Q. Did you turn in your arms and ammunition?—A. Yes, sir; I turned my arms and ammunition in that same night, and I turned the rifle and the rifle ammunition in and got a six-shooter and some six-shooter ammunition.

Q. Who did you get that from?—A. The quartermaster-sergeant of Company C.

Q. What shape was this rifle ammunition in when it was issued to you and when it was returned?—A. It was in a bandoleer, closed up.

Q. And did you return it in the same shape?—A. In the same condition. I did not load the piece that was given to me; I had no occasion to use it, and did not open any of the pockets.

Q. Sergeant, I want you to tell the court the impression of this firing as it struck you at the time; where you located it and what you can recall about it.—A. The first shot struck me as if it were out in the town—somewhere out on that street that separates the town from the post; probably down lower than C Company's barracks. I can tell—

Q. You said it came—A. From that direction. I could not tell exactly whether it was a revolver shot or whether it was a rifle shot, because the shot aroused me, and I was not able to judge.

Q. How was the shooting after that, as it occurred to you?—A. The shooting increased gradually until call to arms was sounded, and it seemed to increase. There seemed to be more shooting after call to arms was sounded than before, and it seemed to be growing nearer

and nearer to me—coming right up toward the administration building—getting nearer to me every second.

Q. Did you hear any shots that you could distinguish, except those three that you said were louder than the others?—A. Yes, sir; I heard quite a number of shots different from the shot that I distinguished.

Q. Can you distinguish rifle shots from high-power rifles?—A. I can tell a rifle shot.

Q. That is, from our guns, like the Krag and the new Springfield?—A. I don't know that I would have been able to distinguish the Krag from the new Springfield very well.

Q. I asked if you could tell that from a .45 pistol, for instance.—A. Oh, yes, sir; if it were near to me.

Q. I did not ask you to distinguish between high-power rifles. Well, this continued to come down in your general direction, you mean to say?—A. Yes, sir; the shooting seemed to grow nearer and nearer to me.

Q. How long did this rifle shooting keep up, as near as you recall it?—A. This rifle shooting near the post?

Q. Yes. With respect to your movements, how long did it keep up—the rifle shooting you heard?—A. The shooting was going on when I reported to the major.

Q. Had been going on all the time?—A. Yes, sir; the shooting had ceased near the post and was going on downtown—seemed to be heavy volleys—firing down in town when I reported to the major.

Q. Do you remember whether you heard more than one call to arms sounded?—A. The only call that I remember is the call that was sounded from the guardhouse. It might have been repeated by the trumpeter over there, but I did not hear any other musician sounding the call but the one who was near the guardhouse—the one who was on guard.

Q. You said you were first sergeant of C Company for some years?—A. Yes, sir.

Q. You knew Private Newton during that time?—A. Yes, sir.

Q. Had he been in the company for some time; if so, how long?—A. I could not tell exactly how long. I went on furlough in November, 1905, and I returned in January, 1906, and I found him with the company in January, 1906, when I returned.

Q. Hadn't he served in the company before?—A. Not before that time.

Q. Did you hear of his being struck with a revolver while you were there?—A. In Fort Brown?

Q. Yes.—A. Yes, sir.

Q. When did you hear of this, Sergeant; from whom?—A. I heard it from some of the men of Company C.

Q. What did you hear of it?—A. I simply heard that he was knocked down with a revolver in the streets by some citizen of Brownsville, Tex.

Q. Did you ever know who did that?—A. I learned some time afterwards that the man's name was Mr. Tate.

Q. Have you any distinct recollection as to the date of this occurrence?—A. I have not. I think it was somewhere between the 5th and 7th of August.

Q. What impression did this make on your mind, Sergeant—this hitting of Newton—at the time it was reported to you?—A. It didn't make any impression on my mind at all.

Q. Why not?—A. Because I knew this man Newton was a man given to drinking and when in liquor was a nuisance and was very liable to do things that would fret other people, and it had been a common thing for him to get drunk and get beat up.

Q. Had you known of his being beat up before?—A. I had; yes, sir.

Q. Where?—A. Fort Niobrara, Nebr.

Q. So as far as Newton getting beat up, you didn't think it was anything out of the ordinary?—A. No, sir; didn't strike my mind as anything out of the ordinary at all.

Q. Did you note yourself, when you were associating with the men, any unusual discussions or any feeling of resentment about it?—A. I did not, sir.

Q. You noted nothing in connection with that that you thought you should report to the commanding officer?—A. I did not, sir.

Q. Did you know anything about any correspondence in connection with that?—A. Yes, sir.

Q. Tell the court what you know about that.—A. I know the commanding officer wrote a letter to Mr. Vann, I think that is his name, inspector of customs, requesting that an investigation be made.

By the judge-advocate:

Does he know that of his own official knowledge? Otherwise we shall have to object.

By counsel:

We are going to fix that. If you will leave him alone, Captain Hay, he will bring that out.

Q. How do you know the commanding officer wrote this letter?—A. Because I wrote the letter on the typewriter myself; a draft was handed to me in the office.

Q. Do you know who signed this letter of your own knowledge?—A. Yes, sir.

Q. Who?—A. The commanding officer signed it.

Q. Major Penrose?—A. Yes, sir; Major Penrose.

Q. Do you recall the date of that Sergeant?—A. I do not, sir.

Q. The correspondence of the adjutant's office went through you, did it not, Sergeant?—A. Yes, sir.

Q. At the time of this occurrence the night of the 13th and 14th of August, had any reply been received from Mr. Vann to this, that you know of?—A. No, sir.

Q. Do you know whether any reply was ever received?—A. I do not, sir.

Q. Now, Sergeant, did you know a man by the name of Adair in C Company?—A. I do, sir.

Q. Was anything brought to your attention in regard to Adair, in connection with trouble he had had down town?—A. Private Adair told me that he went over in Mexico and purchased a gold pen and that returning to Brownsville the inspector came out at the ferry and took the pen from him and asked him his name and his company and said he was going to report the fact to his company

commander. Private Adair told me also that he was going to report the fact to his company commander himself.

Q. That's all you know of that?—A. That's all.

Q. You heard no discussion in the company among the men at all?—A. None at all. Private Adair is the only man that spoke to me about it.

Q. Did you know a man by the name of Reid?—A. Yes, sir.

Q. Did you hear about any trouble that he had had?—A. I heard he was knocked in the Rio Grande River off the ferry. In fact I saw him when he came in wet.

Q. Did he tell you this story?—A. No, sir.

Q. Who did tell you?—A. Private Madison, of Company C. That is the only man I remember talking to of it. He was with Private Reid when he was knocked off the ferry.

Q. What were the circumstances of that, Sergeant? What did Madison tell you?

By the assistant judge-advocate:

We object to that as hearsay.

By counsel:

We think this is pertinent. The judge-advocate has laid the greatest sort of stress on this, and we have got to know first whether this came to this witness's attention, and then follow it up, as I have, with other instances as to what effect this produced on the minds of the members of the company. The fact is that that is positively alleged in these charges. During the prosecution this has been dwelt on with practically every witness that ever heard it, and the only way we can show what the actual feeling among the men was is by the men and by the men that heard it, and show the sources from which they heard it, and what the story was as they understood it. We think it clearly pertinent.

By the assistant judge-advocate:

The only reason I object here as to what Corporal Madison said is that Corporal Madison is one of the men summoned as a witness, and his testimony is better than what this present witness may have to say on the subject. Corporal Madison can tell us about it when he comes.

By the counsel:

I think the distinguished assistant judge-advocate will recall that it is very doubtful if Corporal Madison will ever be here, in spite of the summons. We have no evidence, and we ask the privilege of introducing the next best evidence we have, and we maintain this is the best evidence at hand. It is the only way you can show, and, in fact, it will show that Corporal Madison was actually with this man, and the court will recall that this was brought out on the prosecution—that is to say, that Corporal Madison had directly reported it to the commanding officer, and it was thrashed over from that point.

By the assistant judge-advocate:

I would like to state that Sergeant Taliaferro is a witness in the case that is to succeed this one—the case of Captain Macklin, and any points that may be omitted from his present direct examination he can be recalled later, inasmuch as he is going to be here all the time, and any testimony as to what he heard Corporal Madison say is not at this time, or until we find out whether Corporal Madison can come or not, the best evidence. If Corporal Madison can not come, then there will be no objection to the next best evidence being introduced as to what Corporal Madison said at that time.

By the counsel:

Both the counsel and the judge-advocate in the Macklin case are here and, until the counsel objects to this in behalf of Captain Macklin, we don't think it especially pertinent that it be objected to by the judge-advocate.

The accused, his counsels, the witness, the reporter, and the judge-advocates then withdrew, and the court was closed, and, on being opened, the president announced, in their presence, as follows:

I am instructed by the court to announce that the objection is sustained and the question will not be answered.

Q. Did you hear this matter discussed around among the men?—A. The matter of striking Reid?

Q. Yes.—A. I don't recall any discussion only with Corporal Madison.

Q. Is he the only person you talked to about it?—A. Yes, sir.

Q. Did Corporal Madison express any resentment?—A. No, sir; Corporal Madison——

By the judge-advocate:

I object to that as being purely a leading question. It is using almost word for word a certain allegation in the specification in addition, and I object to that.

By associate counsel:

In reply to the objection of the judge-advocate I will say that I am not attempting to establish any fact in evidence from the hearsay testimony of Corporal Madison, and it is immaterial whether his statement is a truthful one or not; simply to express the state of feeling among the men of the command, and it is from those men, and from them alone, that we can establish the truth or falsity of that specification. I don't see how you could have more competent testimony. The question is not leading, does not suggest any answer as to whether or not Corporal Madison expressed any resentment in any conversation he had with the witness about this incident.

The accused, his counsels, the witness, the reporter, and the judge-advocates then withdrew, and the court was closed, and, on being opened, the president announced, in their presence, as follows:

I am instructed by the court to announce that the objection is not sustained and the question will be answered.

(The question was then repeated: Did Corporal Madison express any resentment?)

A. He did not. Corporal Madison said——

By assistant judge-advocate:

That has been objected to and the court has sustained it, as to what Corporal Madison said.

By the counsel:

Now, may it please the court, I take advantage of this to read to the court the allegation in the specification. We take it for granted that you know it, but to make sure it is in the record we purpose reading it. In the second specification of the charges: "In that Maj. Charles W. Penrose, Twenty-fifth Infantry, being aware of the feeling of resentment in his command toward the citizens of Brownsville, as a result of the assaults upon certain individuals of the command —," etc. That's the only part that is pertinent. Now, we have a right to know what came to this witness in regard to that assault and to every other assault. It makes not one particle of difference whether what came to him was true or not true—the point is, what was the report that came to this witness, from what source did it come, and what was the effect produced on this witness and others of the command with whom he talked? To our mind it is absolutely—and we challenge anyone to produce in any other way—the only means we have or that exist of showing what the feeling in this command was in regard to this particular assault, and it is the only means of knowing whether or not this was brought to the attention of this accused. You can't show the feeling of a command in any other way, as I state, and we have shown now that this did come to this man from a member of that command who was at that ferry and saw the entire incident and told him the facts. It makes not a particle of difference whether these facts are true or not, but did he tell you these facts and what was the effect of them? And it is

not worth while for me to remind the court that that all was thrashed over and the prosecution had to establish it, and it is the only way we can rebut it, and we ask that this witness be allowed to go on and answer that question.

By the assistant judge-advocate:

May it please the court, the objection to the last question put, namely: "Did Corporal Madison express any resentment?" was answered by the witness with the words, "I do not." Then he went on to state, "Corporal Madison said to me—", at which point the prosecution objected, because the fact that the question before the last, as to what Corporal Madison said at the time, upon being objected to by the prosecution, was sustained, and if the witness were to continue in his answer, as he started out to do, it would be plainly contrary to what has just been held by the court, and Corporal Madison is expected as a witness—at least has been subpoenaed as a witness—and until we find out whether he is coming or not, Sergeant Taliaferro's testimony as to what he said at the time is not the best evidence.

The accused, his counsels, the witness, the reporter, and the judge-advocates then withdrew, and the court was closed, and, on being opened, the president announced, in their presence, as follows:

I am instructed by the court to announce the court does not regard the question and answer as falling within the rule including hearsay. The court understands that the statements made by members of the command in conversation are the best available evidence to establish the sentiment existing in the command. The court, therefore, does not sustain the objection.

(Question was repeated to witness.)

A. Corporal Madison said that Reid had been drinking and was creating disturbances on the ferry and was in fault.

Q. What were the facts in this case, as they came to you, Sergeant?—A. The facts in the Reid case?

Q. Yes.—A. Well, the facts were that this man got into a dispute concerning the paying of fares and that while disputing with the boatman on the ferry concerning the paying of fares some officer at the ferry came out and, in clearing the ferry, knocked this man off of the ferry in the river.

Q. What do you mean by clearing the ferry?—A. Getting the crowd out of the way so that people could get into the boats; people that were going back and forth.

Q. Did you hear this discussed at all in the barracks or among the men in any way?—A. I did not, sir.

Q. Do you know when this was, Sergeant?—A. I could not give the date. It probably was about—I think it was a Sunday, if I am not mistaken, and it was about the 11th or 12th of August.

Q. You never heard any feeling expressed by them about it at all?—A. I did not, sir.

Q. You knew nothing of any investigation of this or report of it in the adjutant's office?—A. No, sir.

Q. When did you first hear about the man who was supposed to have interfered with the woman on horseback?—A. Between 5 and 6 o'clock in the evening on August 13, while at supper.

Q. That's the first you heard of it?—A. That's the first I heard of it.

Q. Is that all the facts you heard of it—about the incident itself?—A. Yes, sir; that's all I heard; just what was reported to me by Sergeant Harley that evening.

Q. Did any feeling of resentment or discussion of this in any way come to your knowledge after 5 o'clock that evening, or after you

heard it, between 5 and 6? Among the men, I mean.—A. Yes, sir; Private Mitchell, of Company B, who was——

Q. I am talking about the Evans incident.—A. This is in connection with the Evans incident.

Q. Go on.—A. Private Mitchell, of Company B, who was the mail orderly, came up with the mail about 8 o'clock and stated to me—I asked him what were the conditions in the town, and he said there was a large crowd around the post-office that tried to engage him in an argument concerning this Evans incident, and he shooed them off as best he could. He said they seemed to want to get him in trouble. He said he didn't know anything about it, and just as he got away one of them told him "Well, it's a good thing your commanding officer ordered you all in by 8 o'clock to-night, because some of you are going to get killed to-night." I told Private Mitchell to report that to the adjutant when he delivered his mail.

Q. Do you know whether he did report that to the adjutant or not?—A. I do not. I have been informed he did not.

Q. Did you report it to the adjutant or the commanding officer?—A. I did not report it to the adjutant or the commanding officer, because it was after dark when the mail orderly was talking to me and he was going to deliver the mail, and I told him to report the fact to the adjutant himself. I intended to make the report the next morning myself.

Q. Well, did you make it the next day or at any time afterwards? If so, when?—A. I made it the next time the matter was brought to my attention, which was during the investigation. I made this statement to Major Blocksom I remember very distinctly, and I don't know whether I made—I don't know exactly when I made the report to the commanding officer, but when I spoke to him concerning it——

Q. Was it before the incidents that occurred that night?—A. When this man reported to me?

Q. Yes.—A. Yes, sir; it was about 8 o'clock.

Q. Did you report it to Major Penrose before the shooting?—A. No, sir; I did not.

Q. Do you remember whether you reported it the next day, or when?—A. The first I remember speaking of it again was when the investigation was brought up by Major Blocksom.

Q. So far as you know, was that the first information that Major Penrose had of that, when you reported it to Major Blocksom?—

A. I do not know, sir; I was under the impression that Private Mitchell had reported to the adjutant, as I told him.

Q. But you said you understood afterwards that he did not?—A. Yes, sir; I learned afterwards that he did not make the report.

Q. Do you remember how you learned that? Was it from the adjutant, or whom?—A. The commanding officer told me he did not make the report.

Q. Was that after the report you made to Major Blocksom, or when?—A. I think it was some time afterwards.

CROSS-EXAMINATION.

QUESTIONS BY ASSISTANT JUDGE-ADVOCATE.

Q. By whom were you appointed battalion sergeant-major?—A. I was appointed by Col. R. W. Hoyt, Twenty-fifth Infantry.

Q. Upon the recommendation of whom?—A. Maj. Charles W. Penrose, Twenty-fifth Infantry.

Q. So that Maj. Charles W. Penrose recommended you for this position?—A. Yes, sir.

Q. And to him is due the fact that you are now battalion sergeant-major of the First Battalion?

By associate counsel:

May it please the court, I think this is the proper stage of the proceeding to object to the character of questions being asked by this assistant judge-advocate. He seems to be making use of the witnesses for the purpose of advancing arguments to the court, and I object to the form of questions asked. If he seeks in anyway to establish any evidence by the witness—to break down any evidence testified to in direct examination—it is all right, but I don't think it is proper that he should make use of the witness to make an argument to the court. While that is a technical objection, I think it is more or less material to us, for in that way he has a hearing before the court he is not entitled to.

By assistant judge-advocate:

The fact was brought out in direct examination that the witness is at present sergeant-major of the First Battalion, Twenty-fifth Infantry, and it seems to me it is entirely pertinent to find out by whom he was appointed, and, if he was appointed by the accused, it may show to some extent that he is an interested witness and not entirely unbiased.

By associate counsel:

So far as the assistant judge-advocate has stated his position in his last answer, he is entirely correct. It is most pertinent to establish through this witness how he got his position, but his last question is the one I object to. It is not pertinent to ask the witness if he owes his position as a battalion sergeant-major to Major Penrose. In the first place that is not a correct statement of facts. The witness has just testified that he owes his position to Colonel Hoyt, through the recommendation of Major Penrose, and I don't see any point in going into argument, through the witness, as to whether or not he owes his position to Major Penrose in any other way than he has testified to. I object to it, because the assistant judge-advocate makes use of that form of examination, not only with this witness, but with all he has examined—not that I care about this particular question, but I want to interrupt him in that form of examination.

By assistant judge-advocate.

I don't mind changing the form of that question.

By the associate counsel:

I object to your making use of that form of examination—argumentary.

(By direction of the court the question was read.)

By assistant judge-advocate:

I am willing, may it please the court, to change that question. I merely wish to show by this witness that he owes his position primarily to the fact that he was recommended by his battalion commander and, acting upon that recommendation, his regimental commander appointed him, and to show that his present position is not due primarily to Colonel Hoyt, as he stated, but is due primarily to his battalion commander, the accused.

By associate counsel:

May it please the court, the assistant judge-advocate has already established that from certain questions he has asked the witness, just what the status of the witness is.

If he goes into any more matter in the way of argument, it is equally open to us to indulge in the same kind of examination to rebut that and show that he does not owe his position to Major Penrose, but may owe it to his company commander or some other officer, or it may be shown that some noncommissioned officer has taken steps in that matter. It opens up a number of collaterations I don't think are proper in any examination.

By the president of the court:

If the assistant judge-advocate wishes to change his question, I think he might be allowed the privilege of doing so.

Upon motion of a member the court was closed, the accused, his counsels, the witness, the reporter, and the judge-advocates first withdrawing from the room, and, on being opened, the president announced, in their presence, as follows:

I am instructed by the court to announce the decision that the objection is not sustained. The court holds this line of cross-examination admissible to establish an interest. Assistant counsel are instructed to address their remarks, in the nature of argument, to the court and not to each other, in the way of conversation.

(The question was then repeated to witness.)

A. I do not know. The promotion came unsought; I was very much opposed to giving up my position as first sergeant, and expressed the same to my company commander.

Q. Who was your company commander at that time?—A. Captain Macklin.

Q. Do the noncommissioned officers of the Twenty-fifth Infantry, particularly the older noncommissioned officers, have very close association with the privates as a general thing?—A. I should say they do.

Q. Do sergeants of long service and recruits—are they very often very close friends?—A. No; not even old soldiers, as a general thing, make close friends with recruits.

Q. The noncommissioned officers therefore, as a general rule, pick their friends among the privates out of the soldiers of long standing rather than from men of comparatively short service, do they not?—

A. Yes, sir.

Q. Did you ever overhear any talk in C Company relative to ill-treatment of men?

By counsel:

We should like to have the time fixed as to that, so as to know to what it relates.

Q. Did you ever overhear any talk in C Company prior to the shooting of August 13 relative to ill-treatment received by any members of the command at the hands of civilians in Brownsville?—

A. This striking of Newton is the only incident I heard mentioned.

Q. Did you mess at a separate table there in C Company or with the noncommissioned officers?—A. I don't think they had a separate table at that time, and if they did I was not particular to sit at it. I generally came in late for meals and sat where I could find a convenient place.

Q. Were you present in the adjutant's office when any complaints or reports of ill-treatment were made to Major Penrose prior to the shooting of August 13?—A. I heard none, sir.

Q. Your office is separate—is on the other side of the hall from Major Penrose's office?—A. No, sir; simply a door between us.

Q. Simply a door?—A. Yes, sir; a partition and a door.

Q. When Corporal Madison told you on the evening of August 13 about the orders to the effect that men were to be kept in after 8

o'clock; did he express any opinion on the subject of being kept in?—A. No, sir.

Q. Did you have any further conversation about it other than the mere fact they were to be kept in?—A. I told him he was to come in; he didn't tell me.

Q. What did he say?—A. He says, "I am on pass." I says, "Well, passes are revoked so far as this order is concerned; you have to be in the garrison by 8 o'clock."

Q. What did he say then?—A. Didn't say anything.

The court then took a recess until 2 o'clock p. m., at which hour the members of the court, the judge-advocates, the accused, his counsel, the witness, and the reporter resumed their seats.

The judge-advocate then reminded the witness, Sergt. Maj. SPOTTSWOOD W. TALIAFERRO, that he was still under oath, who testified as follows:

CROSS-EXAMINATION CONTINUED.

QUESTIONS BY ASSISTANT JUDGE-ADVOCATE.

Q. With respect to the Newton affair, when did you first learn the assailant's name was Tate?—A. I can not say; I don't remember the exact time.

Q. Was it before or after August 13?—A. It was before.

Q. Do you know whether it was a week before or two days before, or how long?—A. No, sir; I do not.

Q. Do you know where he lived?—A. No, sir; I do not.

Q. Who told you what his name was; do you remember?—A. No, sir; I do not remember that.

Q. You state that it was a common thing for Newton to get beat up. State exactly, to your knowledge, how many times he has been beaten up.—A. One time that I mentioned as being in Fort Niobrara, Nebr., is very vivid in my mind.

Q. That is the only instance you know of except that one in Brownsville?—A. The only instance that I can fix in my mind.

Q. So, those two are the only instances you have any recollection of at present?—A. To my own personal knowledge, while I know of a number of other instances that were mentioned to me by other men.

Q. Did Major Penrose ever ask you about Newton's character before he sent the letter?—A. I don't remember that he did, sir.

Q. You were first sergeant of C Company for some time?—A. Yes, sir.

Q. Newton was in C Company, wasn't he?—A. Yes, sir.

Q. You have no recollection of his having asked you about what character this man had in the company, whether he was quarrelsome or otherwise?—A. I don't remember any conversation concerning this man's character.

Q. You were in the office, however, at the time that letter was sent?—A. Yes, sir.

Q. And you had been appointed upon recommendation of Major Penrose?—A. Yes, sir.

Q. From first sergeant of Company C—this same company?—A. Yes, sir.

Q. Did Major Penrose request in this letter that Tate be discharged if after investigation it was found that he was in the wrong in the

matter?—A. I don't remember any request as to his discharge; I simply remember he requested an investigation.

Q. You don't remember that Major Penrose requested that this man be put out of the service or discharged in case it was found the assault was made without just cause?—A. No, sir; I do not remember.

Q. Do you know it was not in the letter?—A. I could not say it was not in it.

Q. You wrote the letter yourself?—A. Yes, sir.

Q. You never said anything to the adjutant about Newton's character?—A. No, sir; I wasn't questioned concerning it.

Q. Did you never hear any talk at the supper table or around the barracks with reference to this Newton affair?—A. I heard the matter mentioned at the time it happened.

Q. Did you never hear any member of Company C say in your present [presence] that the colored troops were not given a square deal down there, or words to that effect?—A. No, sir; I do not remember any words to that effect.

Q. Or that the townspeople were bitter against them?—A. I have never heard words to that effect.

Q. You never heard any member of that company say they would get even with them?—A. I have heard nothing of that kind.

Q. Did you never hear the Adair affair, the incident of this pencil being taken from this man, being discussed?—A. Private Adair mentioned that matter to me himself; I never heard anyone else mention it but Private Adair.

Q. With reference to Reid, who was knocked in the water; did you ever hear that discussed?—A. Corporal Madison spoke to me concerning that.

Q. So that from that—A. I never heard it from any other person—any other member of the garrison, or otherwise at all.

Q. Are you married?—A. No, sir.

Q. You lived all the while in Brownsville in the administration building?—A. I lived in the administration building and slept in the administration building until this occurrence of the 13th of August, and after that I slept in C Company barracks. I was in the administration building when the occurrence took place.

Q. How often each day would you visit the barracks—just for your meals?—A. I would visit them for my meals and at night, after the adjutant's office closed, I was frequently down through the barracks.

Q. Who were your particular friends in C Company?—A. Most of the whole company were my friends.

Q. Which were the ones with whom you used to spend your time more than others?—A. Sergeant Carlisle, Corporal O'Neil, and Corporal Madison.

Q. Wasn't Sergeant Harley a good friend of yours?—A. Yes, sir; all the old men were.

Q. Did you have any friends among the recruits?—A. No particular friend among the recruits.

Q. Now, by the way, speaking about these recruits, the description and assignment cards are kept in the adjutant's office of recruits that come?—A. No, sir.

Q. They passed through the adjutant's hands, however, did they not?—A. Yes, sir.

Q. Have you seen many of them since you started in as battalion sergeant-major?—A. Yes, sir; I have seen quite a number of them.

Q. Did you receive many recruits prior to the time you went down to Texas—that is, within six months prior thereto?—A. Not very many.

Q. Where did these come from?—A. Where did most of the recruits come from who were received?

Q. Where did most of them come from?

Counsel for the accused:

We haven't any objection to that evidence being shown, nor have we any special objection to it being asked this witness, but we submit that if the purpose is to show, as we assume it to be, that these people came from any special district or districts the best proof of it is either the D. and A. cards, or the muster rolls, or certified official copies of them. Without attempting to interfere with the examination, we think we have a right to ask what the purpose is, and if the purpose is simply that, then that it be limited to that class of proof.

Assistant judge-advocate:

May it please the court, we withdraw that; the other is doubtless the best evidence, but it was merely a small point, and I thought possibly by testimony of a noncommissioned officer whose position was such that he had occasion to see these cards frequently and probably knew about where the recruits came from. I think it would save a good deal of trouble and time.

Counsel for the accused:

Not only did I state what is unquestionably the law, but surely it could not be expected that a sergeant-major would be expected to remember the contents of D. and A. cards passing through his hands over a period of six months.

The presiding officer:

I understand the question is withdrawn.

Assistant judge-advocate:

Yes, sir.

Q. Leaving aside the question of D. and A. cards, do you know from what recruit depots or recruiting stations most of the men who joined the battalion as recruits came from during the six months prior to your departure from Brownsville?—A. I do not.

Counsel for the accused:

That is the same thing. We objected to that form of introducing that fact—that is all. If he wants it put in we are prepared to admit it, or he can show it by proper evidence.

Q. With reference to this man Mitchell, who reported to you on the evening of August 13 that he had been having an argument with some people downtown, near the post-office, what was his exact language, as nearly as you can recall?—A. He said that there was a crowd around the post-office that said to him, "I see that some of you all have been starting some of your meanness around town," mentioning what was in the paper concerning the Evans assault, and he said that he told them that he didn't know anything about it, and he tried to get away from them, and they told him, "Well, it is good that your commanding officer ordered you all in the garrison by 8 o'clock to-night, because some of you were going to be killed to-night," and he said to them, as near as I can remember now, "I don't think you will do any harm—" I believe he said, "I don't think the killing will be all on one side." I think those are about the words he used, as near as I can remember.

Q. Where is this man Mitchell now?—A. He is a prisoner at Fort Reno.

Q. In the guardhouse?—A. He is dishonorably discharged and sentenced to six months' confinement.

Q. Did you tell Major Penrose about this Mitchell business?—A. Yes, sir; I did.

Q. When?—A. When he held the investigation at Fort Brown.

Q. In August or September?—A. In August.

Q. You are positive of this, that you narrated the incident in practically the same way you have before this court?—A. Yes, sir.

Q. Did you tell Colonel Lovering anything about it?—A. No, sir; I didn't tell Colonel Lovering anything but what he asked me. He swore me in and said, "Confine yourself to just what questions I ask you, and nothing else." That is what he said.

Q. Did you ever have any occasion to visit any saloons in Brownsville?—A. I did, sir.

Q. Tell the court your experience in visiting the first saloon that you went to, kept by a white man.—A. I simply went in—

Counsel for the accused:

We are not going to interpose any objection, but will just call attention to the fact that it was not gone into in direct examination.

Assistant judge-advocate:

I withdraw that question. (After a lapse of a moment.) On reconsideration, I will repeat that question.

Q. Did you ever have occasion to visit any saloon in Brownsville kept by a white man?—A. I did, sir.

Q. Narrate your experience.

Counsel for the accused:

I think we will have to put in a formal objection to that, and ask the court to rule on it; it is not proper examination.

Assistant judge-advocate:

I will withdraw that question.

Q. Upon what date did you receive your warrant as battalion sergeant-major?—A. I think it was May 9, 1906. I was appointed May 9, 1906; I don't know, sir, exactly, the date I received the warrant in my hand.

Q. You were at this time at Fort Niobrara?—A. Yes, sir.

Q. Were you placed on duty in the adjutant's office?—A. Yes, sir.

Q. Had you been on duty in the adjutant's office previous to that?—A. No, sir.

Q. Were you present in the office when Colonel Hoyt sent a letter to the War Department?

Counsel for the accused:

That is also objectionable; it is not proper cross-examination, in that it wasn't gone into under direct examination.

Assistant judge-advocate:

May it please the court, inasmuch as this fact has already been brought out by another witness and other testimony on this point may be merely cumulative, I will withdraw that question also.

Q. Did you ever hear of any trouble that the Twenty-fifth Infantry had at the Fort Riley maneuvers?

Counsel for the accused:

I object to that question. It is entirely irrelevant and not proper cross-examination.

Assistant judge-advocate:

May it please the court, this line of questioning, though it is not possibly entirely confined to matters brought out on direct examination, still it is upon matters pertinent to the issue as to whether there was any feeling of resentment entertained by the men of the command down there, and it seems to me that whatever is brought out by this or any other witness which tends to show that their treatment in Brownsville was decidedly different from that they had experienced before, or that they were kept away from the maneuvers for any particular reason, seems to me is pertinent and relevant.

Counsel for the accused:

May it please the court, I wish to remind you that this witness has been here for a month and a week or two as a witness for the prosecution. If this is a fact, and the prosecution was anxious to bring it out, there is no time in the last four or five weeks but that it could have been brought out, and we object for the reason stated.

The presiding officer:

Do I understand the question was withdrawn?

The judge-advocate:

It was not, sir.

The accused, his counsel, the judge-advocates, the witness, and the reporter then withdrew, and the court was closed, and, upon being opened, the presiding officer announced as follows:

I am instructed by the court to announce the decision that the objection is sustained.

Q. Do you know what time it was when you were awakened on the night of August 13?—A. I could not give the exact time. The first time my attention was called to the time of night was after the shooting had ceased, when the major took out his watch, and I think he said it was then 12.10, if I am not mistaken.

Q. You are not absolutely certain as to the hour he announced?—A. I am not. It is my impression he said it was 12.10; that was a short while after the firing had ceased.

Q. Were you more or less confused when you woke up, or not?—A. I was excited.

Q. You state this first shot was followed after a few seconds' interval by another one?—A. By quite a number.

Q. Were they fired as a volley, or were they fired as if by a lot of people who hadn't had any training in rifle firing?—A. It was scattering fire.

Q. So the first firing you heard after this first shot that awakened you was a scattering fire?—A. Yes, sir.

Q. Did that cease for any time after that?—A. It seemed to continue for several minutes, or quite a number of minutes—probably five minutes or more—this ragged fire near the barracks, and then it seemed to go down into the heart of town, and the volleys that I heard were down in the heart of town—seemed to be a considerable distance downtown.

Q. Were there any cessations of firing at all from the time the bunch of shots were fired until the cessation of the firing?—A. Not to my knowledge; only the pause after the first shot, and then the shooting was more or less continued until the final ceasing.

Q. Was this continuous shooting mainly made apparently by high-power rifles?—A. The most of the shots could have been high-power rifle.

Q. There were individual shots that you thought were not?—

A. There were mixed in individual shots that I am quite certain were not high-power rifles.

Q. But in general the shooting from the time the main shooting began until the shooting was all over was that of high-power rifles, was it not?—A. Most of the shooting did sound like that.

Q. You stated that the firing at first seemed to come from some distance from the post and then gradually came nearer.—A. Yes, sir; it seemed to be drawing nearer to me.

Q. As a matter of fact, where were you when you heard this first volley?—A. When I heard the first shot?

Q. When you heard the first shot you were where?—A. I was in the administration building, in my room, in bed.

Q. And when you heard the first volley where were you?—A. As I have stated, I did not hear any volleys until the shooting had ceased near the post. The volleys I heard all seemed to be some distance downtown.

Q. This first bunch of shots, where were you when you heard them?—A. I was still in my room dressing. I got out of the bed at the first number of shots. The first shot I raised on my arm to listen, and then when I heard quite a number of shots I got out of bed and started to dress.

Q. And it was at this time when the shooting seemed to be way away from the post?—A. It seemed to be some distance toward town.

Q. And after you got out of the quarters the firing seemed nearer?—

A. Yes, sir; it seemed to be right in rear of B Company barracks when I got through dressing and ready to leave.

Q. The firing after you came out in the open appeared to be in rear of B Company barracks, up that alley?—A. No; it seemed to be right at the gate, most of it—right in the rear of the barracks, at the gate.

Q. In case the first shots—the first bunch of shots—was fired in rear of B or D Company barracks, for instance, isn't it a fact that the barracks themselves would have prevented the sound from reaching you as clearly as though there had been no barracks there? Were they not between you?—A. Yes, sir; the barracks were between me and the shooting all the time.

Q. So that to some extent they probably shut off the sound?—

A. No, sir; I don't think they did, because I was in the same room all the while, and the shooting continued to draw nearer to me. If the barracks had shut off the sound my impression would not have been changed until I left the barracks, but this shooting gradually came up nearer to me, and it reached in rear of B Company quarters before I left the room.

Q. How long did it take you to dress?—A. I don't think it took me more than two or three minutes.

Q. Did you put on all your clothes?—A. I didn't put on my leggings.

Q. Did you dress as you otherwise ordinarily would?—A. No; I dressed rapidly.

Q. When you ran out, the shots sounded nearer than when you

were inside?—A. They sounded to me like they were in the rear of B Company barracks when I got outside.

Q. When you were dressing and in the house?—A. It seemed right in rear of B Company barracks when I come out. The shooting had gotten up until it impressed me as being in rear of B or D Company barracks.

Q. You mean the shooting started in rear of B Company barracks and then worked down the road toward the river?—A. The shooting apparently started farther down.

Q. Down where?—A. Down that street that separates Fort Brown from Brownsville. It seemed to me that the shooting was out in the street and somewhere down nearly opposite that vacant set of barracks, and it gradually came up until it reached in rear of B Company barracks, and the shooting had gotten up that high before I left my room, according to the sound to my ear.

Q. You were in the house at that time?—A. Yes, sir.

Q. Could you tell when you were in the house the exact location of shots fired anywhere from a hundred to 300 or 400 yards away?—A. I have an idea.

Q. Do you mean to tell the court that you, lying in bed or dressing yourself in a room in a building at a distance of from 100 to 300 yards or more from where firing is, that you can tell exactly opposite what particular house the first shot sounded?—A. I can tell what my impression of it was.

Q. Was that impression formed at the time or formed later, after you found out about the shooting?—A. Formed at the time.

Q. And you state that this first shot that had a dull sound was fired where?—A. The first shots that I heard that had a dull sound were up near the gate that leads out into Elizabeth street.

Q. How many shots did you hear that had a dull sound?—A. I heard quite a number of them.

Q. You heard some up Elizabeth street?—A. They seemed to be right at the gate that leads out into Elizabeth street.

Q. When was it you heard this voice calling out, "I want all of you?"—A. That was when I heard those dull shots. I would hear this man yell, then I would hear the shots.

Q. Where were you at the time?—A. In my room.

Q. This man was standing, apparently, where?—A. Out about the gate that leads into Elizabeth street.

Q. Could you hear that man, too?—A. According to the sound, that is where I located him.

Q. How long was this after the first shot?—A. That might have been probably two minutes, hardly much more than that.

Q. About two minutes after the first shot that a man stood by the garrison gate and called out, "I want all of you" three times?—A. I suppose it wasn't more than two or three minutes; I was about ready to leave.

Q. Will you swear it wasn't more than three minutes?—A. I would swear as to the number of minutes; I hadn't left the building when I heard it, and I left it as soon as I got dressed.

Q. You were still in the building, however, when this voice called out?—A. Yes, sir.

Q. If you could hear it in the administration building, couldn't anyone sleeping on the back porches of B or D Company barracks

and was also awakened by the first shots—ought he not have heard it?—A. He should have heard it.

Q. What is the distance from your room to the garrison gate?—A. I should put it not quite 200 yards.

Q. And you heard this voice plainly and distinctly call out three times, "I want all of you," at a distance of 200 yards?—A. Yes, sir; about 200 yards; it might be less.

Q. The windows in the barracks were open at that season of the year?—A. Most of them; yes, sir.

Q. Are not the windows in the barracks in which the men sleep habitually kept open in summer in Brownsville?—A. Yes, sir.

Q. Were your windows open?—A. Yes, sir.

Q. How far is it from the garrison gate to B and D Companies' gate, approximately?—A. Oh, about—

Q. I believe we have that accurately—never mind.—A. About 30 yards.

Q. And you were 200 yards away?—A. Yes, sir.

Q. You were in a room and the men in the barracks, most of them asleep inside the barracks, were they?—A. Yes, sir.

Q. Men awakened by the first shooting in either B or D Company should have heard that voice?—A. Men awakened by the first shooting should have heard that voice.

Q. And C Company barracks wasn't any farther from the barrack's gate than the administration building, was it?—A. I don't think it was.

Q. So that men in C Company should have also heard that voice?—A. I don't know what should have prevented them from hearing it if they were awake at the time.

Q. Do you know of any other man in that entire command that heard that voice?—A. I do.

Q. What is his name?—A. Private Dorsie Willis, Company D, Twenty-fifth Infantry.

Q. When did he tell you about this?—A. Well, we were at, if I recall—he was orderly for the commanding officer one day, and we were speaking of this disturbance, and I told him it was strange I hadn't met any man who had heard that voice, and he told me, "I heard it."

Q. That is the first instance you heard of anyone else having heard it?—A. I didn't discuss the matter with other men.

Q. Did you ever report this to Major Blocksom?—A. About hearing this voice?

Q. Yes.—A. I don't remember reporting the words that this man used, but I reported to him that I heard the yelling, and I reported to him that I heard a man shooting a gun that was not an army rifle, and that I heard the yelling distinctly.

Q. Why didn't you tell him you heard this voice call out those words?—A. Because he didn't question me along that line; he simply was trying to find out as to who the soldiers were who had done the shooting and to get some information to lead to the plot that the soldiers had formed to shoot up the town—to get some information that would lead to the finding out that the soldiers had formed a plot to shoot up the town, and he made no—

Q. Didn't Major Blocksom tell you to speak freely and tell all you knew about the affair? Did he limit you?—A. He didn't limit me,

but I don't remember him asking me about anything that bore on this line, as to whether the shooting had been done by soldiers or others.

Q. Did he not tell you to state anything he had not covered in his questions?—A. No, sir; I don't remember that he did; the only thing I can remember he asked me was, "Don't you think the soldiers were really incensed at Newton's treatment, and really formed a plot to shoot up the town on account of the treatment of that man Newton?" Most of the questions were along the line of finding out what soldiers had been implicated in the shooting, and as to whether it was soldiers or other parties that did the shooting he did not ask.

Q. So he didn't give you an opportunity to state all you knew about this affair?—A. He gave me no occasion to state that.

Q. Did he give you any opportunity to state it?—A. He gave me no occasion to volunteer any such information, but seemed to know that the shooting had been done by soldiers, and I don't know—

Q. Never mind; the question is answered. You stated in your direct examination, I believe, that the man that fired that first shot was the man that made this call, and repeated it twice?—A. No, sir; I didn't make that statement.

Counsel for the accused:

I beg your pardon, he didn't state that.

Assistant judge-advocate:

The record is not here, and I am trying to quote it without any intention to confuse the witness.

Q. The first shot was fired, then, to the east of the company barracks, along that road, to the best of your judgment—the first shot, that dull, heavy sound?—A. That dull shot struck me as if it was in that street that separates Fort Brown from the town near the gate. The man didn't seem to be very far from the gate that leads out into Elizabeth street; I would have placed him over near that gate.

Counsel for the accused:

Were you asking about the very first shot?

Assistant judge-advocate:

Yes, sir.

Counsel for the accused:

He has never located that.

A. I am speaking of the dull shot, the shot that I associate with the call that was made—the call that "I want all of you."

Q. You think the man that fired that shot and the man that made that call was one and the same man?—A. Yes, sir; I feel quite certain that the man that made that call made the shot, because the shooting and the calling came from the same direction.

Q. You were in the house at that time?—A. Yes, sir; in the administration building, but my window wasn't down.

Q. You were just about leaving the building at that time?—A. Yes, sir.

Q. And how far is your door to your room from this window in your room that was open?—A. I should judge it to be about 15 or 16 feet.

Q. And were you about going out that door when you heard this?—
A. I heard that before I started to the door.

Q. How far is your bed from the window?—A. My bed was right at the window.

Q. And you dressed right there on the edge of your bed?—A. Yes, sir.

Q. And you heard this shot just about the time—A. About the time I was getting ready to leave.

Q. You don't know whether it was when you were sitting on the bed or walking toward the door?—A. I was standing on the floor, dressing.

Q. You are positive as to the exact words?—A. I am positive; I will never forget them.

Q. Did you hear any other words?—A. Those are the only words I could distinguish.

Q. Did you hear any men call out about black son-of-a-bitches?—
A. I did not hear that.

Q. Did you light a light in your room to dress by?—A. I did not, sir.

Q. When did the bugle sound?—A. The bugle sounded soon after the first shooting commenced; I should place it probably thirty seconds, I should think.

Q. After the first shot?—A. After the first shooting started.

Q. So thirty seconds after this first shot that you heard the bugle started?—A. It seemed to me about that.

Q. Did you hear any more than that one bugle?—A. I don't remember hearing but one bugler.

Q. Where did that come from, apparently?—A. From the direction of the guardhouse.

Q. How many times did he sound call to arms, or if that was the call to arms he sounded?—A. Yes, sir; he sounded call to arms. I am not certain how many times he sounded it.

Q. For about how long a time was the sound of the bugle kept up; while you were crossing the parade?—A. No, sir; it ceased before I left the building.

Q. Before you left the administration building?—A. Yes, sir.

Q. And the bugler didn't sound it any more?—A. I didn't hear him.

Q. Did you hear any other bugler sound it?—A. No, sir.

Q. What did you do when you left the administration building?—
A. I went to Major Penrose's quarters.

Q. How did you go?—A. I went in rear of the officers' quarters.

Q. Show the court on the map.—A. (Witness goes to map.) I went right by this end door, and right down here, right in rear of these quarters, and around down here; I think the last quarters are Major Penrose's, on the left (indicating on the map a line from the southern face of the administration building southward just west of quarters 12, fence in rear of officers' quarters to Quarters A).

Q. Did you walk or run during this time?—A. I ran as rapidly as I could.

Q. When you got to Major Penrose's, what did you do?—A. I knocked and called for Major Penrose.

Q. Did anyone respond?—A. No one responded.

Q. No one at all?—A. No one at all.

Q. Then what did you do?—A. I went to the guardhouse.

Q. By the way, how long were you knocking at the door there?—

A. Not but a very few seconds; I didn't pause, because I was in a hurry to find the major.

Q. Then ran to the quarters?—A. Yes, sir.

Q. You saw Corporal Wheeler and Sergeant Reid there?—A. Yes, sir; besides several of the guards.

Q. At what point during your run from the administration building to the guardhouse did the bugle cease?—A. It ceased before I left the administration building.

Q. And from that time you didn't hear it any more?—A. I didn't hear the call any more.

Q. Are you a light or heavy sleeper?—A. I am a light sleeper; I wake very readily.

Q. So you are certain in your mind that that first shot you heard fired that night was the first shot fired in the vicinity of the post?—A. I am not certain.

Q. What has been your experience in the past of shots fired within a couple of hundred yards from you, at night? Are they apt to arouse you, or not?—A. They are.

Q. After you left the guardhouse, I believe you stated you met Lieutenant Grier.—A. Yes, sir.

Q. Will you please point out on the map approximately where it was when you met him?—A. (Witness goes to map.) I met Lieutenant Grier just about here, right opposite C Company barracks (indicating a point south of the western half of C Company barracks and about one-third the distance across the parade).

Q. Now, with reference to this voice that you heard call out three times, "I want all of you," was that call made before or after the call to arms was sounded?—A. After the call to arms.

Q. Was it after the call to arms had ceased?—A. Yes, sir; the call to arms had ceased, I think, when I heard that.

The court then took a recess until 3 o'clock p. m., at which hour the members of the court, the judge-advocates, the accused, his counsel, the witness, and the reporter resumed their seats.

Q. (The reporter read the last question.) Did you hear any other sound at this time besides this voice?—A. I heard the scavenger's cart running around the building.

Q. From which direction did it come?—A. It seemed to be coming from the rear of B Company barracks; seemed to be running toward the Rio Grande River to get out of the way.

Q. In front or in rear of D Company?—A. I could not tell.

Q. Could you see the cart?—A. I could not see the cart, and could only hear the cart, and didn't know it was the cart until the next morning, when I found out that it was the scavenger. I heard the next morning, after I inquired, that it was the scavenger.

Q. From your best judgment at the time, or, rather, what was your impression at the time, that the cart was in front or in rear of D Company?—A. My impression at the time was that it was a piece of artillery, and I wondered where the town people got a Gatling gun or some other piece of artillery. That is just exactly my impression.

Q. It wasn't until the next day you knew it was the scavenger?—A. Yes, sir.

Q. Did you think the town people were bringing a piece of artillery inside the post?—A. Yes, sir; I thought they were bringing in a Gatling gun. I heard the wagon running, and I thought it was some kind of artillery.

Q. What kind of team did the scavenger drive to this cart?—A. I think he had one mule, I believe.

Q. From the noise made by this cart, was the mule running or walking?—A. He was running.

Q. Did you see him again?—A. I did not see him that night at all.

Q. Where were you when you first heard the cart?—A. I was still in my room.

Q. How long was this before you left your room?—A. Probably a few seconds, or it might have been half a minute.

Q. Before you left your room you heard this cart?—A. Yes, sir.

Q. And it was then in the direction of— A. It seemed to be running toward the Rio Grande River, down in the rear of D Company barracks.

Q. To the best of your recollection, how many minutes was it after this when you left the administration building?—A. It was right away; just as soon as I could get my clothes on. I dressed as fast as I could.

Q. After you heard this wagon, how many minutes or half minutes was it before you left the administration building?—A. It might have been half a minute more.

Q. About a minute altogether?—A. Hardly a minute.

Q. The animal drawing this cart was apparently going at a gallop when you heard it?—A. Yes, sir.

Q. It was going very rapidly, was it?—A. Yes, sir.

Q. And you heard it, to the best of your recollection, about a minute before you left the administration building?—A. Yes, sir.

Q. Are you sure it could not have been two minutes?—A. No, sir.

Q. Did that wagon come any closer to the administration building than C Company barracks?—A. I don't know.

Q. If you were there for another minute and then left there and went down toward quarters No. 12, you would have heard the scavenger cart if it had come by in that direction?—A. If it had come up toward Major Penrose's quarters—No. 12?

Q. If it had come by the administration building?—A. If it had come toward the administration building while I was there, I would have heard it.

Q. Or over toward the officers' line, would you have heard it?—A. I would hardly have heard it there.

Q. It isn't any farther from the officers' quarters than it is from the administration building?—A. I was moving at a run and the shooting was going on at the same time, and I probably would not have heard the cart. I heard it very distinctly while I was in the room, because I was still paying attention to the sounds I heard.

Q. I thought you were dressing as rapidly as you could?—A. I was dressing, but I was not running or walking.

Q. Can't you locate this cart a little more definitely at the time you first heard it?—A. No more definite, except down there in the rear of B or D Company's barracks; I couldn't tell which.

Q. How is it you can't locate that any more exactly when you can

locate with such precision the voice and the direction in which the shots were fired from?—A. I haven't located that with any more precision than I have the cart. I said the man I heard yelling was somewhere about the gate that leads out on Elizabeth street. I couldn't say exactly the point he was, but he was somewhere near that gate. The cart was somewhere in the rear of B Company barracks. I could not locate either with any more precision.

Q. You said something about a shot coming from some building up the line.—A. I said somewhere near them. I am not definite about that.

Q. That might have come from the rear of C Company barracks—that shot?—A. It might have been up by C Company barracks.

Q. Being in the room, you couldn't tell exactly? It might have been as close as B Company barracks?—A. I don't think it was as close as B Company barracks.

Q. When you were outside you could locate things more accurately than when you were in the house?—A. I think I could.

Q. And you could hear this shooting better?—A. Yes, sir; I think so.

Q. And you might have gotten the impression that the shooting was moving nearer to the post from the fact that there was a greater volume of firing?—A. No. As I stated before, the shooting seemed to be coming toward me when I was still in the room, and it seemed to continue to draw nearer until it got up in rear of B Company barracks; and it got up opposite, in rear of B Company barracks before I left the room.

Q. Is it not true that the firing was gradually increasing in volume during that time?—A. Yes, sir.

Q. So that at first you heard a single shot, which you thought was off at some distance?—A. Yes, sir.

Q. And then you heard some scattered shots which still seemed to be off some distance, and then you heard some more that seemed to be getting nearer, and then just as you left the administration building you heard some firing that seemed to be in rear of B Company barracks?—A. Yes, sir.

Q. And during this time the firing was steadily increasing in volume, was it not?—A. Yes, sir.

Q. There were more shots at the time you left the administration building than there were previous to that time, were there not?—A. Yes, sir.

Q. So that there was a greater volume of sound in the air?—A. Yes, sir.

Q. It was your impression, you stated, that the sounds moved toward you?—A. Yes, sir.

Q. Are you willing to swear that that could not have been an impression formed merely because of the increase in the volume of sound, making it seem to you that the shots were coming nearer?—A. Yes, sir; I will swear at the time that that was not on account of the increase of the volume of sound.

Q. What was the character of this firing?—A. Which firing?

Q. This firing after the first shot, up until the time you left the administration building. Was that apparently rifle fire, or was it revolver fire?—A. It could have been mixed. I heard all kinds of

shots, and some of them could have been rifle shots and some revolver shots.

Q. You stated a while ago that most of those shots were from high-power rifles?—A. Yes, sir; most of them came from high-power rifles.

Q. And there were only isolated single scattered shots of revolvers or shotguns?—A. It sounded like now and then I could hear a heavy, dull report.

Q. Like a pistol?—A. Not like a pistol, but like a gun.

Q. Like a shotgun, do you mean?—A. It didn't sound very much like a shotgun, but more like some gun I am not familiar with.

Q. But practically all of this firing was from high-power rifles?—A. I said most of it sounded like that.

Q. How long have you been in the service?—A. My twelfth year continuous service.

Q. Can't you tell the difference between rifle fire and revolver fire?—A. I can sometimes, but when they are mixed in I can not tell there is a revolver coming in with the others. The shots didn't sound like as if they had all been one kind; I could have told probably it was mixed if they had.

Q. Did the rifle fire predominate?—A. It sounded like more of it.

Q. And there were only, as you stated before, occasional pistol shots?—A. I could not state pistol shots; but there were occasional shots that did not sound like rifle shots in the intervals.

Q. Were you more or less confused at this time and excited?—A. I was greatly excited when I arose.

Q. You were awakened from a sound sleep?—A. Yes, sir; well, I had just gone to sleep; I hadn't been in bed very long.

Q. And you awoke with what impression?—A. I woke up with the impression that the post was being fired upon.

Q. And that naturally increased your excitement?—A. And this man seemed to me calling for the lives of everybody, further increased my excitement.

Q. So that any opinion you formed at that time as to the direction in which the shots were must have been formed at a time when you yourself was under a considerable strain and under excitement?—A. Yes, sir; I was certainly under excitement at the time.

Q. On the way down to the guardhouse you stated that you met Private Harden, or saw him?—A. Yes, sir.

Q. Where was that, exactly?—A. He was on the porch—under the porch of the post exchange.

Q. Where is the post exchange?—A. It is just a little way from the guardhouse.

Q. Which side—south or north?—A. South.

Q. South of the guardhouse?—A. Yes, sir.

Q. Was he on sick report at that time?—A. I think he was; yes, sir.

Q. Did he not work for some officer?—A. I don't know, sir, whether he did or not.

Q. What was he doing at the post exchange at 12 o'clock at night under the porch?—A. He came out from the hospital, I suppose.

Q. How far is the hospital from the post exchange?—A. The hospital is some little distance; I couldn't tell exactly.

Q. Is it 20 yards or 100 yards?—A. It is more like a hundred yards.

Q. Is that your best recollection, that it is about 100 yards?—A. Yes, sir.

Q. Did he tell you what he was doing there?—A. No, sir; he simply asked me what was the trouble going on down there, and he wanted to go down there, and I told him not to go.

Q. How was he dressed?—A. He was dressed in pajamas; hospital clothes.

Q. Did he have any shoes on?—A. I didn't notice.

Q. You asked him, I believe, if he had seen Major Penrose?—A. No, sir; I don't remember asking him anything about that.

Q. When you got to the guardhouse, how many men were there?—A. I remember seeing the sergeant of the guard and the corporal of the guard, and I can say for a certainty, only two privates, and I couldn't tell how many more, because it was dark. The guards were lying prone in line of skirmishers, and I couldn't tell how many there were.

Q. You saw two privates lying prone?—A. Yes, sir; I saw two privates lying prone.

Q. Did you see any more?—A. It was dark, and I couldn't see any more.

Q. How close were you to Private Harden?—A. I got close enough to speak to him.

Q. How close was that?—A. As close as from here to you.

Q. You passed right by him?—A. He came up to me as I was nearing the guardhouse and inquired about this disturbance, and said he wanted to go down there, and I told him not to go.

Q. Now, when you met Lieutenant Grier at the point where you indicated a few moments ago on the map, what did you say to him?—A. I asked him where was Major Penrose.

Q. How close did you get to Lieutenant Grier before you saw him?—A. I was right up on him when I saw him.

Q. Was he running or walking?—A. He had about come to a walk.

Q. In which direction was he going?—A. Going toward C Company.

Q. From which side of the parade?—A. He had just come from the officers' line, I think. It strikes me that he was in front of C Company when I first met him, near about the front of C Company, and I don't recall now whether he was walking or standing still.

Q. You can't state as to that?—A. No, sir.

Q. Did he state that he had seen Major Penrose?—A. Yes, sir; I asked him where was Major Penrose, and he told me where to find him.

Q. Now, had the firing uptown ceased at this time or not?—A. The firing was still going on uptown when I reported to Major Penrose.

Q. And this was after Lieutenant Grier had left Major Penrose?

Counsel for the accused:

One moment. That may be beyond the witness's knowledge.

Q. Then, the shooting uptown continued for how many minutes after Lieutenant Grier told you where you could find Major Penrose?—

A. I should think it continued for two or three minutes; probably more.

Q. And Lieutenant Grier at this time was in front of C Company?—

A. Yes, sir.

Q. What kind of a night was this?—A. It was dark.

Q. Few stars out, or many?—A. I don't remember noticing the stars at all.

Q. When you reported to Major Penrose, I believe you stated he was about midway between C and D Companies' barracks and slightly out toward the parade?—A. He was on the parade ground, opposite the interval.

Q. Did you hear any noise as if the men were getting out of barracks at this time?—A. The men were getting out of the barracks and were lining up. Some first sergeants were calling the roll and some seemed to be counting fours.

Q. Did you hear the first sergeant of Company B, for instance, calling the roll, or was it C?—A. I don't know now; I wouldn't be positive; I think it was B Company.

Q. At any rate, one of the companies?—A. One of the companies seemed to be calling the roll. I know it wasn't C Company, because I was very near to C Company at the time, but it was some company up the line calling the roll, and I think it was B Company.

Q. You are positive it wasn't C?—A. Yes, sir.

Q. And you think it was B, though it might have been D?—A. Yes, sir.

Q. Did you hear the first sergeant or did you hear a voice calling out the names of these men and hear them reply, "Here," in this company?—A. It was only for a second. I might have heard one answer, probably; I did not stay there a second.

Q. You said you heard the first sergeant calling the roll?—A. I heard him calling something; it sounded like he was calling the roll. I simply went on and reported to Major Penrose, and asked his permission to go in the barracks and get some arms myself. I didn't make any close investigation as to what was going on among the men in the confusion.

Q. Did you hear somebody calling a roll there?—A. It seemed to me like some of the first sergeants was calling a roll.

Q. Which company did you go into?—A. Went into C Company.

Q. Where was the quartermaster-sergeant?—A. I don't know, sir; I couldn't find him.

Q. Who gave you a rifle?—A. Sergeant Brawner, in charge of quarters. He directed the room orderly, I think it was Private Jefferson, of C Company, to give me a rifle and ammunition.

Q. The box of ammunition was already opened when you got there?—A. I didn't see the box; the ammunition was handed me on the staircase.

Q. In what form was this ammunition?—A. In the bandolier, all made up.

Q. Were there any lights in the barracks?—A. There seemed to be a little light.

Q. Where from?—A. It might have been a lantern; I couldn't tell from what source it came.

Q. Did you see any lantern there?—A. I did not see any lantern.

Q. If you saw this light, can't you tell us from where it came?—A. It didn't seem to be enough light to be from a pendant light. That is the reason I suppose it was a lantern.

Q. Was the upstairs in total darkness at that time?—A. I didn't get upstairs; I got halfway up the stairs and then Sergeant Brawner came up to me and I asked him where the quartermaster-sergeant

was—Sergeant McMurray—and he told me he was down at the storeroom, and I went down to the storeroom and the storeroom seemed to be locked, and then I went back and Sergeant Brawner told this man to hand the sergeant-major a rifle and a bandolier of ammunition. I did not go upstairs at all; I only went halfway upstairs; I stopped midway between the top and bottom of the steps.

Q. What was C Company doing at that time?—A. They were out in line.

Q. Were all the men dressed?—A. Some of them didn't have on any top shirts; some had on blouses and some didn't.

Q. Did you meet any other men in the quarters when you went halfway up the stairs?—A. I don't remember seeing anybody but Sergeant Brawner, who was in charge of quarters, and the room orderly, Private Jefferson.

Q. How long was it from the time you heard the first shot, to the best of your recollection, until this sergeant gave you a rifle and ammunition?—A. I should place it at probably—it might be six minutes; not much more than that.

Q. How long after this was it that the firing uptown ceased?—A. The firing uptown ceased while I was getting this rifle and ammunition, because when I came out I remember I heard no more shooting.

Q. What was the nature of the latter part of the firing—was it rifle fire or was it mixed fire?—A. It was at such a distance from me that I couldn't tell much about it; the only thing I could tell about it was that it was in volleys—heavy volleys.

Q. The last firing you heard then?—A. Was heavy volleys.

Q. Were they fired with precision, as soldiers fire them on the range?—A. They seemed to be fired with precision.

Q. That was the last firing you heard?—A. Yes, sir.

Q. You never heard any shots at all after that?—A. No, sir.

Q. So that this shooting began with one shot and gradually increased up to a pretty heavy rifle fire, with occasional pistol shots mixed in it, until in the end nothing but heavy volleys uptown?—A. I couldn't say occasional pistol shots because I don't know but what there might have been other guns than pistols in the shooting.

Q. Now, with reference to the order given by Major Penrose, "Do not shoot until I give the order"—did you hear that order given?—A. I did, sir.

Q. To whom was it given?—A. It was given to the battalion in line of skirmishers.

Q. Did he call it out in loud enough tone to be heard by everybody?—A. Yes, sir.

Q. Were those his exact words, "Do not fire a shot until I give orders"?—A. "Until I give the command."

Q. It wasn't addressed to any officers nearby, but was addressed to the battalion?—A. Yes, sir.

Q. Did you yourself walk along that wall that night?—A. I walked some distance along the wall.

Q. Was it light or dark along the wall?—A. It was light up near the gate where that lamp was at.

Q. As a matter of fact, after you passed to the eastward of the rear of B Company—to the eastward of the oil house and to the rear of B Company—was it not dark down there?—A. Yes, sir; it was dark down there.

Q. But in the immediate vicinity of the gate it was light?—A. Yes, sir.

Q. There were two oil lamps there, I believe?—A. Yes, sir.

Q. What time did the patrol leave? Did you look at your watch then?—A. No, sir; I did not. I couldn't tell exactly what time they left.

Q. How long were they gone?—A. I don't know exactly; I couldn't say as to that.

Q. You were there when they left and when they returned? I refer to the patrol commanded by Captain Lyon of D Company.—A. Yes, sir; I was there when they left and when they returned.

Q. Can you approximate the length of time they were gone?—A. I would place it at less than an hour.

Q. You stated that this patrol was accompanied upon its return by Mayor Combe and his brother?—A. Yes, sir.

Q. Do you refer to his brother, Dr. Joseph Combe?—A. I think that is his name; yes, sir.

Q. How close were you to Dr. Joseph Combe when he made the statement with reference to some Mexicans?—A. I was probably about 10 yards from him.

Q. Where was Major Penrose at this time?—A. I think he was off talking to the mayor at the time.

Q. You think he was off talking to the mayor?—A. Yes, sir.

Q. About how far were the mayor and Major Penrose from you?—A. I don't remember exactly; probably about 15 or 20 yards.

Q. You could see them, however?—A. Yes, sir.

Q. How far were you yourself from this gate?—A. I was standing very near the gate then—not more than 10 or 12 yards from the gate.

Q. So you were 10 or 12 yards from the gate and Major Penrose? What did you say?—A. Probably 15 or 20 yards from me.

Q. And this Dr. Joseph Combe was talking to whom?—A. I don't remember now exactly to whom he was talking. I think Captain Lyon was with him, and I don't know what other officers were near. I thought some of the other officers were there. I am not positive now.

Q. Just give his exact words as you recollect them now.—A. You mean the words of the mayor's brother?

Q. Yes. Tell us all you overheard.—A. I heard him say, "I jumped this bunch, and I thought it was a band of Mexicans making a raid through the town." Then I heard him say that he and his brother, the mayor, had just addressed a mob of about 300 over there and directed them, or requested them, to disperse and go home. As near as I can remember that is the substance of what he said.

Q. To what did he refer when he said, "I jumped this bunch, and I thought it was a band of Mexicans?"—A. He referred to Company D, of the Twenty-fifth Infantry, commanded by Capt. Samuel P. Lyon.

Q. So he didn't have any reference to the people who did the shooting?—A. No, sir; he simply had reference to Captain Lyon and his company. That is who I understood he had reference to. He was standing right by Captain Lyon and D Company at this time, and he said, "I jumped this bunch——"

Q. So you don't want to give the impression to the court that you overheard Doctor Combe state that he "jumped a bunch that he

thought was a band of Mexicans" and that he thought were the people that did the shooting, but that he had reference to Captain Lyon's company?—A. He had reference to Captain Lyon's company when he spoke. He thought that Captain Lyon and his company—Company D, Twenty-fifth Infantry—was making a raid through town. That is the way I got the impression.

Q. And he said he thought "that bunch"—that is, Captain Lyon's company—A. Was a band of Mexicans—

Q. Making—A. A raid through the town.

Q. You are positive that Dr. Joseph Combe said that?—A. Yes, sir.

Q. To Captain Lyon?—A. Yes, sir.

Q. And to who else?—A. I do not remember. I could not name the other officers who were there, but I am quite certain Captain Lyon was there.

Q. Those roll calls you heard over in front of the barracks—you stated, I believe, you only heard one first sergeant calling the roll?—A. I think one was all that I heard calling the roll.

Q. You are not sure whether that was in C Company or B Company?—A. I am quite certain it wasn't in C Company, because I was near enough to know if it had been C Company. I would have been positive; but it was some distance up the line. That is the reason I can't be positive.

Q. How long was C Company there after you went after the gun?—A. They left while I was in getting the gun.

Q. I thought you said when you came out C Company was still there.—A. They left and went along the wall and were in line of skirmishers before I got out. When I got out, they had all gone around to the wall. They left while I was in the barracks, and they were stationed in line of skirmishers around the wall.

Q. Did you, when testifying before Colonel Lovering, state in reply to a question, "What enlisted men did you see before the firing ceased?—A. I saw the man that I have named and one patient in the hospital—I am not certain what his name was—was of Company B, standing on the porch in night clothes. And I saw very nearly the whole of Company C. Sergeant Brawner, Company C. I couldn't name any more names, Colonel. I saw a crowd of men, and there was no roll call made, and I wouldn't like to say I saw this one or the other, because there was no roll call made at the time, and I don't know the names of all the men?"—A. I didn't state that I did not know the names of all the men. I told him I wouldn't like to call the names of the men on account of no roll being called at the time, and there was nothing to fix my mind on any one man. I didn't want to call the names, because I was too familiar with several of their names; because I was liable to call their names from memory.

Q. So you are mistaken if you said you didn't hear any roll call? You did hear a roll call that night?—A. I didn't state in that statement to Colonel Lovering that there was no roll call at all. I stated there was no roll call in C Company.

Q. How was this statement taken down before Colonel Lovering? Was it taken down by a stenographer?—A. Yes, sir; I think so. I wasn't allowed to read it over, and if I had have been I would have corrected that statement, and—

Q. Never mind entering into explanations about it.

Counsel for the accused:

I think the witness has a right to explain any discrepancy that comes up in his evidence without being cut off.

The presiding officer:

Yes; the witness may explain.

A. My reason for not giving the names of Company C was, as I told him, because there was no roll ever called in Company C at that time and I was afraid to say that I saw this one or that one for fear I might mention the name of some one that was not present. It wasn't because I didn't know the names, but was because I was afraid to call the names from memory.

Q. By saying "I saw a crowd of men and there was no roll call made," what do you mean by that?—A. I had reference to C Company, Twenty-fifth Infantry. The first question he asked me was, he asked me what men did you see before the firing ceased. I named several individuals, and then I said I saw most all of C Company; and he said name some of them by name, and then I started on and made this explanation I have just given.

Associate counsel for the accused:

May it please the court, that is his full answer as recorded here in this report.

Q. When did you get the rifle from the quartermaster-sergeant of Company C?—A. After the shooting was over.

Q. You returned the rifle at that time?—A. Yes, sir; after I had been dismissed by the commanding officer I went to C Company barracks and handed back the rifle and the rifle ammunition and was issued a revolver and revolver ammunition.

Q. Now, with reference to this bugle call that you heard, I would like for you to be as definite as you can and state when you first heard it and when it ended. Where were you at these different times?—A. I was in my room dressing when I heard the bugle call, and the bugle ceased before I left my room.

Q. And you didn't hear it any more?—A. No, sir.

Q. Did you at any time ever look for bullet marks on the barracks?—A. I did.

Q. With what result?—A. I didn't find any.

Q. Did you examine the sides of the barracks toward town?—A. I did.

Q. Did you examine that very carefully?—A. I simply passed around there and didn't see any marks of any bullets.

Q. Did you ever hear of anyone finding any bullet marks on the barracks?—A. A private of Company B told me that a bullet broke a window in the barracks and Private Perkins, of Company C, told me that several bullets struck in the shingles over his head where he was sleeping.

Q. Did anyone ever see those bullet holes?—A. I don't know whether they did or not.

Q. Did you ever see that broken window?—A. I did not, sir. The broken window was not called to my attention until after I had left Fort Brown.

Q. Were you in the company at the time Major Penrose examined the barracks?—A. No, sir.

Q. Did you see him examine the barracks at that time?—A. I did not, sir.

Q. Were the sergeant of the guard, Sergeant Reid, and the corporal of the guard, Corporal Wheeler, regularly detailed from the adjutant's office for guard that night?—A. Yes, sir.

Q. You had charge of that roster yourself?—A. Yes, sir.

Q. So that was just in the ordinary course of events that those two men—noncommissioned officers—happened to be on guard that night?—A. Yes, sir.

Q. Did the sergeant of the guard, when you reached the guard-house, give you any information relative to Major Penrose?—A. He said he hadn't seen him.

Q. Did he say anything as to having received any orders from him or knew where he was?—A. No, sir. I asked him where was the commanding officer, and he said, "I don't know," and I asked him where was the officer of the day and he said, "I don't know."

Q. And the bugle had ceased at this time?—A. Yes, sir; the bugle ceased before I left the administration building.

Q. Did you have any further conversation with the sergeant of the guard?—A. No, sir; no more than, as he started off with one man to go up the parade ground I started along, too, and he looked around and said, "Where are you going?" and I said, "This is the sergeant-major," and he said, "Excuse me, I thought it was one of the guard."

Q. Now, to go back to this conversation between Mayor Combe and Major Penrose near the gate: Were you not close enough to overhear any of it?—A. No, sir; I was not.

Q. You didn't overhear anything that was said?—A. No, sir. I did not try to get close enough to hear, because the mayor indicated to Major Penrose that he wanted to speak to him privately, and I withdrew a respectful distance.

Q. But aside from that you were near the commanding officer most of the time?—A. Yes, sir; with the exception of the time I was sent away to find Captain Macklin and to get the gun.

Q. I believe I asked you as to your appointment as sergeant-major, as to the date?—A. I am not positive as to the date I received my warrant, but I was appointed May 9, 1906.

Q. Battalion sergeant-majors are appointed by regimental commanders after or upon recommendation of battalion commanders, are they not?—A. I think so; yes, sir.

Q. Did you hear any bullets flying over the post while you were traveling about the post that night?—A. I heard no bullets at all, sir.

QUESTIONS BY THE COURT.

Q. Can you state whether you experienced that a race feeling existed in the town of Valentine, Nebr., or not, between the white and colored people? I mean in regard to social matters.—A. The race feeling in the town of Valentine, as regards social matters—

Counsel for the accused:

We have no objection to it, but we want to interpose the statement that we don't see that that has any bearing on this case.

The accused, his counsel, the judge-advocates, the reporter, and the witness then withdrew, and the court was closed, and, upon being opened, the presiding officer stated, in their presence:

Let the witness go on and answer.

A. The race feeling in Valentine was just about the same as I have found at my own home where I was born and raised and in most of the States West and North. There in law and in business the negro was dealt with fairly and justly and on an equality, and as to social matters, there was a line drawn; the social relations were no closer in Valentine than in Brownsville.

Q. Do you know whether or not there existed a feeling of resentment, *for any cause*, against the people of Brownsville on the part of the command at Fort Brown, or any part of it?—A. I do not, sir.

Q. When you heard the shooting in town and not near the post, what impression did you have as to the reason for it at that time?—

A. What impression did I have as for the reason of the shooting?

Q. (Question repeated.)—A. I thought it was a mob starting an attack on the post on account of this Evans incident that had been circulated in the newspapers.

Q. Where were you born and raised?—A. Lynchburg, Va., sir.

RECROSS-EXAMINATION.

QUESTIONS BY THE ASSISTANT JUDGE-ADVOCATE.

Q. By the statement just made by you with reference to the conditions being similar, so far as social intercourse between the whites and the negroes is concerned, in Valentine, Nebr., and Brownsville, Tex., do you mean that the attitude of the people, as a whole, toward the negro and the negro soldier is identically the same?—A. No, sir; I didn't say it was identically the same.

Q. In what way was this difference evidenced?—A. I thought I made it very plain that in Valentine there is no discrimination made against the negro in business, and there seems to be no attempts to do violence or to cheat him out of justice in law; but so far as social relations are concerned they are separate, while in Brownsville there seems to be a disposition not to do business with him—not only not to do business with him, but not to allow him to do business, and to cheat him out of a fair trial in the courts.

Q. This was evidenced while you were in Brownsville?—A. Not only in Brownsville, but it was the general conditions throughout that section.

Q. And those conditions existed down there while you were there?—A. Yes, sir.

Q. Inasmuch as the conditions under which you have found yourself in Brownsville were so different in this respect from those under which the men served at Fort Niobrara, did not this naturally arouse a feeling of resentment among the men who had never been treated that way before?—A. I don't know that it did; but most of the men had come from the South, where they were very familiar with such things, and it was my opinion that they had made up their mind to make the best out of it they could. I know I did. They all knew

the relations and conditions in the South: they were perfectly familiar with them before they came down here.

Q. But service in Brownsville was not popular with the Twenty-fifth Infantry?—A. A great many men would rather have been elsewhere, while at the same time there were many men who were willing to put up with the hardships to get to soldier in some little town, they had been so far West so long.

Q. But as a general thing the men did not feel any kinder disposed toward the town people than the town people did toward them?—A. I couldn't say that they did.

(At request of counsel for the accused the reporter read the following question and answer from the examination by the court: "Q. Do you know whether or not there existed a feeling of resentment, for any cause, against the people of Brownsville on the part of the command at Fort Brown, or any part of it?—A. I do not, sir.")

Counsel for the accused:

I would like to have the court or whoever asked that question to fix the time, or permit the witness to answer the question as to what time he referred to.

The presiding officer:

I don't know; I presume it was prior to this trouble.

Counsel for the accused:

We would like to have it straightened up, because we don't know what it refers to. I will just straighten it out by questioning the witness.

REDIRECT EXAMINATION.

QUESTIONS BY COUNSEL FOR THE ACCUSED.

Q. Sergeant, in answering that question, did you have in mind the service of the men in Brownsville previous to the night of the 13th and 14th of August?—A. Yes, sir.

Q. And not the feeling after that?—A. No, sir; I had no reference to the feeling after that.

Counsel for the accused:

I would like to have the question read, including the question and answer quoted from the book entitled "Brownsville Affray," asked by the assistant judge-advocate.

(The reporter read the question as recorded on page 1682 [792], being the last question thereon).

(Witness excused.)

By Senator WARNER:

Q. You were sleeping down in the administration building? A. Yes, sir.

Q. When you got to the quarters, over to the quarters where the company was forming, there was considerable confusion?—A. Yes, sir.

Q. What was being done with the companies when you got there, a roll call, or what was being done, or were they just forming preparatory to a roll call?—A. It seemed that some were forming and some calling the roll. I could not tell exactly what they were all doing, but they were coming out of the barracks and getting their arms.

Q. They were still coming down out of the barracks?—A. Still coming down out of the barracks and falling in.

Q. So that the company had not really been formed?—A. No, sir; they were being formed.

Q. You are quite clear about that?—A. Yes, sir.

Q. Now, when you first heard this shot, that caused you no annoyance, did it, that one shot?—A. No, sir; I didn't think it necessary to get up for one shot.

Q. Yes; I understood you that you did not think it was necessary to get up.—A. No, sir; I simply raised up and listened.

Q. You lay in bed there?—A. Yes, sir.

Q. And then you heard the call to arms, did you?—A. No, sir; the call to arms didn't go until after I heard quite a number of shots.

Q. You heard quite a number of shots, and then did you get up?—A. Then I got up, because I knew there was some serious trouble.

Q. And dressed yourself?—A. Yes, sir; and while I was dressing the call to arms sounded.

Q. You got up and dressed yourself?—A. Yes, sir.

Q. That took you a few minutes, did it?—A. Yes, sir.

Q. Then you went to Major Penrose's quarters?—A. Yes, sir.

Q. Because of being sergeant-major?—A. Yes, sir.

Q. You were subject to his orders, or rather his bodyguard, or with him?—A. Yes, sir.

Q. Then you went up to the guardhouse?—A. Yes, sir.

Q. And then you came from the guardhouse down to the barracks?—A. Yes, sir.

Q. And that is the time they were falling in?—A. Yes.

Q. Now, Sergeant, in going over there to the major's quarters, how did you go—ordinary time or what you call "double time?"—A. I ran as rapidly as I could.

Q. You stopped there a moment?—A. Well, I don't know, sir. It wasn't a minute; I don't think I stayed there a minute.

Q. You say a minute?—A. Just time enough to make sure that the major wasn't in his quarters.

Q. About how far is it from the administration building to Major Penrose's quarters that he occupied there?—A. Well, I should think it was about, probably, 300 yards.

Q. Three hundred yards?—A. Yes, sir.

Q. What is the distance from Major Penrose's quarters to the guardhouse?—A. I would place that at about 200.

Q. Two hundred?—A. Yes, sir. I am not certain about these distances; just estimating. I only stayed there a short while.

Q. I am just getting your best judgment.—A. Yes, sir.

Q. What would you say would be the distance from the guardhouse down to Barracks C, which was the nearest occupied barracks to the guardhouse?—A. Well, I would put that at about 350.

Q. So that we have distances, as near as you can estimate, of 300 yards to Major Penrose's?—A. Yes, sir.

Q. Two hundred yards from Major Penrose's to the guardhouse?—A. Yes, sir.

Q. And about 350 yards from the guardhouse back to Barracks C?—A. Yes, sir.

Q. That would make 850 yards; and when you got back to the

barracks the companies were just falling in?—A. Yes, sir; the companies were just falling in.

Q. Coming downstairs with their guns?—A. Yes, sir.

Q. It took you several minutes to make that round, did it not?—A. I made it very rapidly. I don't know exactly. It could not have been very long.

Q. Eight hundred and fifty yards; that would be nearly half a mile?—A. Yes, sir; I could not tell exactly how many minutes it took.

Q. But you made all that round?—A. Yes, sir.

Q. Did you speak to anybody at the guardhouse?—A. Yes, sir; I spoke to Corporal Wheeler and to Sergeant Reid.

Q. In going from the administration building to Major Penrose's headquarters, and from there to the guardhouse, and from the guardhouse back to the barracks, you did not hear any bullets?—A. No, sir; I didn't hear a bullet.

Q. You were in a position to have heard them if there had been any bullets flying overhead there, if they had come close enough to hear?—A. If they had been high up I would not have heard them, probably. If they had come in a reasonable distance, the height of a man, I could have heard them.

Q. That is, you were in as good a position as anyone passing along there to have heard a bullet?—A. I don't know, sir; other people might have been in a better position.

Q. That is a matter of speculation. You did not hear any?—A. I didn't hear any; no, sir.

Q. Now, you did hear a man crying out in a loud voice three times, "I want all of you?"—A. Yes, sir.

Q. Where did that voice seem to come from; what place?—A. It impressed me as though it came from right over near the gate leading out into Elizabeth street.

Q. Right near the gate?—A. Yes, sir; seemed to be right near the gate.

Q. Now, right in that connection, you knew the scavenger?—A. Yes, sir.

Q. What was his name?—A. I think his name is Tamayo.

Q. Did you hear him or his cart that night?—A. I heard his cart.

Q. What attracted you to Tamayo's cart?—A. I thought it was artillery.

Q. That is, he was going so fast with that mule of his that you thought it was artillery?—A. Yes, sir; the shaking of the cart together.

Q. So that if that mule was walking, it was a pretty fast walk, was it not?—A. Yes, sir; that mule wasn't walking. That cart was being maneuvered very rapidly.

Senator FORAKER. It had an iron bed, hadn't it?

The WITNESS. Yes, sir; I think it had.

By Senator WARNER:

Q. It made enough noise for six or eight iron beds?—A. Yes, sir; it made a great racket.

Q. And did it not occur to you then to wonder, as you have stated somewhere, I believe—I may be wrong about that—if the people of Brownsville had a Gatling gun?—A. Yes, sir; the court required me

to state exactly what my impression was at that time, and I told them what my impression was at that time.

Q. That you thought it was a Gatling gun?—A. Yes, sir.

Q. Now, when was that rushing over there of the scavenger, with reference to this voice that you heard saying, "I want all of you?" Was it about the same time?—A. They were very near together.

Q. Was the voice before you heard the rattling of the cart?—A. Well, I could not be positive about it, really. They were so close together I could not tell which was first or which was second, really. There was very little time between them, I know that.

Q. Did you not think, as to Tamayo, from the way his cart was going at the time, that it would be likely, if anybody shouted, that he would want them?—A. That he would want them?

Q. Yes; want the soldiers' assistance, the way he was frightened?—A. No, sir; I am quite certain that it wasn't Tamayo, because I have heard his voice and am familiar with it.

Q. You know his voice?—A. Yes, sir; this voice I heard, it was a deep guttural, a bass voice.

Q. And Tamayo has a tenor voice?—A. A lighter voice than that.

Q. This was a deep voice?—A. Yes, sir; a deep guttural.

Q. Now, what was the distance from the administration building, where you were, to the place where you heard this voice?—A. Probably it might be 175 yards.

Q. I think possibly in your testimony you may have stated it was 200 yards.—A. Possibly; I could not say definitely.

Q. And you have thought over this?—A. I would not be positive about this distance. It wasn't over 200 yards.

Q. And you were in your room when you heard the voice?—A. Yes, sir.

Senator FOSTER. Dressing.

By Senator WARNER:

Q. Which end of the administration building were you in?—A. I was to the right of the hallway. The hallway opens here, facing the parade ground [indicating on map], and in entering the building I was in the room to the right. The room to the left is the sergeant-major's office, and the bedroom is to the right.

Q. That is, when you went from the parade into the administration building, fronting the parade ground, your room was to the right of the hall as you went in?—A. Yes, sir; to the right of the hall as you went in.

Q. What was in the corner room, right next to that?—A. The corner room was used as a tailor shop.

Q. That corner down next the barracks is used as a tailor shop; so that your room was between the tailor shop and the hall?—A. Yes, sir.

Q. Did you tell Major Penrose about that that night?—A. Yes, sir; I told him that night.

Q. Now, you were not altogether surprised when you heard this shooting?—A. No, sir; not altogether surprised, as I say, because I had heard of the disturbance that was in the town, and I thought it just had assumed greater proportions than I thought it would ever assume.

Q. This story that the postman, or the mail orderly, did you call him—A. Yes, sir.

Q. (Continuing.) Had told—A. Yes, sir.

Q. (Continuing.) About the feeling—A. Yes, sir.

Q. (Continuing.) On account of the assault alleged to have been made upon Mrs. Evans.—A. Yes, sir.

Q. You heard of that?—A. Yes, sir.

Q. You, as a noncommissioned officer, felt, then, did you not, that extra precautions should be taken there?—A. Well, no; I didn't. And it may be surprising to you that I didn't, and I can tell you, but I will have to explain, about why I didn't think anything seriously about it. It wasn't my first visit to Texas. I soldiered in Texas in 1900, and there was continual talk about the garrison that they were going to run us out of the post and going to mob us, and going to do this and that, and they never did anything to us at all.

Q. Were you at El Paso?—A. No, sir; at Fort Sam Houston, in 1900, and I heard continual talk, and just similar to the talk started there at that time that I mentioned hearing. I didn't think anything would come of that in 1900. They never did any such thing; and when this came up I supposed it was just idle talk.

Q. You were down in town frequently?—A. Yes, sir.

Q. You mixed around among the people?—A. Yes, sir.

Q. You would go into the stores?—A. Yes, sir.

Q. And do your trading?—A. Yes, sir.

Q. Did you ever have any trouble?—A. No, sir.

Q. Did anybody ever annoy you at all?—A. No, sir.

Q. You were treated just as gentlemanly as you ever were anywhere?—A. In some places. I wasn't served in them all.

Q. That was in places where, perhaps, you would better not be served?—A. Yes, sir.

Q. That was in the saloons?—A. Yes, sir.

Q. That is, they required you to go to a separate bar?—A. Yes, sir; in some places.

Q. And then it was that the boys started a saloon of their own, so as to be independent?—A. Yes, sir.

Q. Now, about what time was that saloon started?—A. I could not tell you definitely, sir.

Q. It was about pay day, was it not?—A. I think it was shortly before pay day.

Q. It is a fact, is it not, Sergeant, unfortunately, in that regiment as in others, that when pay day comes a good many of the soldiers get rid of their money as soon as they get it?—A. Yes, sir; that is the trouble.

Q. Drinking?—A. Yes, sir.

Q. And so this saloon was started up there just about pay day?—A. Yes, sir.

Q. Were you up there?—A. I don't know whether the saloon was started just about pay day or not. As I have stated before, I don't know when the saloon was started, really.

Q. Very well, Sergeant. There is some evidence here, but I do not remember myself.—A. Yes, sir; I don't know.

Q. So that you do not remember just the time it was started?—A. Yes, sir.

Q. With reference to this Allison saloon, did you go there?—A. I believe I was in there once.

Q. I do not know that it is very important how many times you were there, but I thought I would ask you.—A. Yes, sir.

At 4 o'clock p. m. the committee adjourned until to-morrow, March 27, 1907, at 11 o'clock a. m.

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, March 27, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF SERGT. MAJ. SPOTTSWOOD W. TALIAFERRO, U. S. ARMY (COLORED)—Continued.

Sergt. Maj. SPOTTSWOOD W. TALIAFERRO, U. S. Army (colored), a witness previously sworn, being recalled, testified as follows:

By Senator WARNER:

Q. This scavenger, Tamayo, did he drive down to the administration building while you were there?—A. Not to my knowledge, sir.

Q. In the administration building there was one hallway, was there not, through the center?—A. Two hallways; one running the length of the building and one running across.

Q. But going from the front to the rear there was just one hallway?—A. Yes, sir.

Q. Did anyone go through that hallway or into it while you were there?—A. No, sir; I did not hear anyone.

Q. If they had you would have heard them, would you not?—A. I think so.

Q. Where was Tamayo? What was the direction in which he was driving when you heard him?—A. I could not tell the direction; I could only hear the cart.

Q. Could you tell with reference to the barracks?—A. He seemed to be in rear of B or D Company's barracks, one or the other, I could not tell exactly. It was over in that direction.

Q. But you knew he was driving like Jehu?—A. Yes, sir; the cart was making considerable noise, and I only found out the next morning that it was the cart. I did not know what it was at the time.

Q. How did you find out then?—A. By inquiry among some of the men. I have forgotten now exactly how the information came to me. It did not come direct, but somebody had heard the cart and stated that it was the cart that was running around there.

Q. You went over to Major Penrose's quarters; that was the next to the last of the officers' quarters toward the river, was it not?—A. It was the last set of quarters; yes, sir.

Q. That does not seem to be marked.—A. It was right there [indicating]. It was the last building. There was no building the other side of it.

Q. The last building up toward the hospital—toward the river?—A. Yes, sir.

Q. And who was it you met there?—A. No one.

Q. Who was the first person you met?—A. Leaving there?

Q. After leaving the administration building?—A. Well, as near as I can remember now, I think the first person that I spoke to was a private of B Company, who approached me from the hospital porch. Afterwards I learned his name to be Private Harden.

Q. Where did you see him?—A. I saw him on the hospital porch, and he advanced toward me and I advanced toward him.

Q. Did you see anybody at the canteen?—A. No, sir; I did not see anyone at the canteen. It was on the hospital porch that I saw the man.

Q. Now, in going to the place where you met this private—what was his name?—A. I found out afterwards his name was Private Harden.

Q. Had you been to the guardhouse then?—A. No, sir.

Q. The hospital was how far from the guardhouse?—A. I should judge it to be—probably might be something in the neighborhood of 200 yards, or 175—somewhere along there.

Q. When you went to the guardhouse you were looking for Major Penrose?—A. Yes, sir.

Q. You would not expect to find Major Penrose at the hospital?—A. I did not go to the hospital.

Q. Were you not going toward the hospital?—A. Well, I was maneuvering, with the idea of keeping on low ground, keeping high ground between me and the firing. I was not making a straight line. I had the moat between me and the firing, and was maneuvering like in every direction. I did not know but the major had got his battalion out and deployed. I did not know where he was; I had no idea.

Q. Did you suppose he would have his battalion out near the hospital?—A. I did not know where he would locate them. I thought he would be on the field somewhere probably, seeking cover and defending the position.

Q. So in maneuvering—A. In maneuvering I passed very considerably out of a straight line. I did not make a straight line.

Q. So the distance you traveled would be considerably greater than what you gave us yesterday as the distance in a straight line?—A. Considerably greater than a straight line. I gave the distance between Major Penrose's quarters and the guardhouse. I did not state that I went in a straight line across there.

Q. No; I understand; but the way you traveled would make you go considerably farther.—A. Would make it a great deal farther than a straight line; yes, sir.

Q. Was it before you got to the guardhouse or afterwards that you met Harden?—A. It was before I reached the guardhouse, sir.

Q. How far was the post exchange? That is what you call the canteen, isn't it?—A. Yes, sir.

Q. How far was the post exchange from the hospital?—A. The post exchange I would judge to be about 75, probably 75 or 100 yards, it might be.

Q. Was it between the guardhouse and the hospital?—A. The post exchange was between the guardhouse and the hospital.

Q. Can you point it out on the map?—A. Yes, sir. I think this

is the post exchange, and over here is the guardhouse [indicating], and there is the hospital over there.

Q. The post exchange is marked on the map there "70," is it not?—

A. Yes, sir.

Q. Did you see him before you got to the guardhouse?—A. I saw this man on the hospital porch before I got to the guardhouse.

Q. On the hospital porch?—A. Yes, sir.

Q. You are clear about that?—A. Yes, sir; I am quite certain that that is correct.

Q. Now, in your testimony before the Penrose court-martial, on page 787, I find this question was asked you:

Q. On the way down to the guardhouse you stated that you met Private Harden, or saw him.—A. Yes, sir.

A. Yes, sir.

Q. That is correct, isn't it?—A. Yes, sir.

Q. The next question was:

Q. Where was that exactly?—A. He was on the porch—under the porch of the post exchange.

A. That was an error, and I corrected it and have the certificate of the judge-advocate, the prosecution, and the defense, both agreeing that it was an error, because I had testified before Colonel Lovering that this man was on the hospital porch when I saw him. I have this letter from the adjutant-general.

Senator Warner read the letter referred to, as follows:

I certify that Spottswood W. Taliaferro, battalion sergeant-major Twenty-eighth Infantry, witness before the general court-martial convened at Fort Sam Houston, Tex., February 4, 1907, for the trial of Maj. Charles W. Penrose, Twenty-fifth Infantry, did appear before me March 15, 1907, and state that Private Harden, of Company B, Twenty-fifth Infantry, was seen on the night of August 13, 1906, on the hospital porch at Fort Brown, Tex., and that the statement that Harden was on the porch at the post exchange was an error, and requested that the correction be noted. This correction agrees with his sworn testimony before Lieutenant-Colonel Lovering as to the location of the private of Company B, and the correction was accepted without question by both the prosecution and defense.

CHARLES E. HAY, JR.,

Captain, Acting Judge-Advocate, Judge-Advocate.

FORT SAM HOUSTON, TEX., March 16, 1907.

By Senator WARNER:

Q. You gave your statement before Colonel Lovering?—A. Yes, sir.

Q. That was the only one you gave, was it not, until you testified before the court-martial?—A. Yes, sir.

Q. You knew the purpose of the investigation when made by Colonel Lovering?—A. Yes, sir.

Q. What was that?—A. I supposed it was for the purpose of finding out information concerning this shooting.

Q. And that it was your duty to give him any information you had?—A. Yes, sir.

Q. And as you have said yesterday, you did not attempt to conceal any information, but gave all that you had?—A. Yes, sir; that is correct.

Q. Any information that would lead to telling whether it was the soldiers or citizens who did the shooting up of the town?—A. Yes, sir.

Q. That was your purpose and intent in giving the testimony?—A. Yes, sir.

Q. Now, Harden was the first one that you met then, was he?—

A. Yes, sir; he was really the first man that I saw.

Q. You are quite clear about that?—A. Yes, sir; I am quite clear about that.

Q. He was an enlisted man?—A. Yes, sir.

Q. I notice in your testimony before Colonel Lovering the following:

Q. Who were the first enlisted men that you saw after you awoke?—A. The first enlisted men that I saw after I awoke were the corporal and sergeant of the guard.

A. Well, he wanted the names, and those were the only names that I had, and the first ones that came into my mind. In testifying before Colonel Lovering I could not give the name of this man that I saw on the hospital porch.

Q. I know, but that answer was correct, was it?—A. Yes, sir; the names of the first men that I saw and could name from memory, and of course the sergeant of the guard and the corporal of the guard being most prominent in my mind, and the only ones I could name, were the ones that I did name, but afterwards, in going over it in my mind, I told him that I remembered seeing a private of Company B on the hospital porch, but I could not tell the name, but, in fact, I should have named the private of B Company first. He first said he wanted the names of the individuals. So that is the only difference between the two statements. Afterwards I found the name of this man that I had seen down there to be Private Harden, of Company B.

Q. Well, whatever that may have been, it was your purpose to give any information you had?—A. That was my purpose, to give the correct information to the very best of my ability and knowledge of the facts.

Q. Did you think that this information you received from Mitchell, who was the post mail carrier, was he not?—A. Yes, sir.

Q. He was an enlisted man?—A. Yes, sir.

Q. And simply carried the mail to and from the post-office?—A. Yes, sir.

Q. Did you say anything to Lieutenant-Colonel Lovering about the information you received from him?—A. I did not.

Q. Didn't you think that was quite important?—A. Colonel Lovering swore me and said, "Take a seat, Sergeant, and just answer the questions that I ask you." That is what he said, "Just answer the questions that I ask you."

Q. Didn't you a few moments ago state that your purpose was to tell anything you knew about this matter?—A. It was.

Q. Did you tell him anything—didn't you think it somewhat important that he should know about this noise that you heard like a Gatling gun?—A. I wanted to tell him the whole story.

Q. But you did not tell him a word about that?—A. I did not tell

him a word but what he asked me, because he confined me—he said, “Just answer the questions that I ask you.”

Q. Didn't you try to answer him some other way?—A. No, sir; I did not make any effort, for I did not think it was my duty as a soldier—and he was a colonel, a commissioned officer of the United States Army, and I supposed he had all the information at his hands—and he said, “You answer the questions I ask you.” My training tells me to do what I am told.

Q. Did you hear any roll call?—A. I think B Company was calling the roll when I reported to Major Penrose. I could not be certain about it, but I think so.

Q. Who was calling the roll?—A. I could not tell that, because I did not pay that much attention to it.

Senator WARNER. In this connection I will let the testimony of this witness be inserted as given before Colonel Lovering and found on pages 114 and 115 of Senate Document No. 155.

(The testimony referred to is as follows:)

Spottswood W. Taliaferro, battalion sergeant-major, Twenty-fifth Infantry.

Q. Where were you on August 13, 1906, when shooting commenced at Brownsville?—A. I was in my bunk, sir, asleep, at Fort Brown, Tex., in the administration building.

Q. Who were the first enlisted men that you saw after you awoke?—A. The first enlisted men that I saw after I awoke were the corporal and sergeant of the guard.

Q. Name them.—A. Sergeant Reid, Company B, and Corporal Wheeler, of Company D.

Q. Was this before or after the shooting ceased?—A. The shooting was still going on.

Q. Was there much shooting or only a little?—A. There was a great deal of shooting.

Q. Where were they when you saw them?—A. They were at the guardhouse.

Q. Was the guard formed?—A. There was a few members of the guard lying prone as skirmishers in front of the guardhouse. I could not tell what the rest of the guard was doing or where they were.

Q. How long did you stay at the guardhouse?—A. Not more than a minute; hardly a minute. I was looking for the major.

Q. Did anybody come to the guardhouse while you were there?—A. No, sir.

Q. Did you find the major before the firing ceased?—A. Yes, sir.

Q. What enlisted men did you see before the firing ceased?—A. I saw the men that I have named and one patient in the hospital; I am not certain what his name was; was of Company B, standing on the porch in night clothes. And I saw very nearly the whole of Company C. Sergeant Brawner, Company C. I couldn't name any more names, Colonel. I saw a crowd of men, and there was no roll call made, and I wouldn't like to say I saw this one or the other, because there was no roll call at the time, and I don't know the names of all the men.

Senator SCOTT. May I ask a question or two?

Senator WARNER. Certainly.

By Senator SCOTT:

Q. Where did you first enlist?—A. I enlisted at Washington, D. C., sir; right here.

Q. Where were you born?—A. Lynchburg, Va., sir.

Q. Do you regard Lynchburg as your home?—A. Yes, sir.

Q. Do you know the late colonel of the Twenty-fifth Infantry, Gen. Andrew S. Burt, retired?—A. Yes, sir; I know him when I see him. I have not seen him for a long while, but I think I would recognize him.

Senator SCOTT. I want him called later as a witness.

Q. Do you know how long he was colonel of the Twenty-fifth?—
A. I think it was about ten years, sir; I am not certain. He was colonel when I came into the service.

By Senator WARNER:

Q. Where was it you met Lieutenant Grier?—A. I think he was about opposite C Company's barracks.

Q. Out in the parade ground?—A. Yes, sir.

Q. How far from his quarters?—A. He was nearly to the side of the barracks—nearly over to the barracks from his quarters. I don't know exactly the number of his quarters, but it was very near all the way across the parade grounds.

Q. And about how near the barracks would you say he had gotten?—A. Well, he was in front of the barracks, I would say about—probably 10 or 15 yards.

Q. And still going toward the barracks?—A. Well, I could not be positive whether he was moving or standing still. I was in a great hurry. I did not pause very long. I simply asked him where was the major.

Q. That was a pretty dark night?—A. Yes, sir.

Q. You were right upon him before you could distinguish him?—
A. Yes, sir; right upon him before I could distinguish him.

Q. It was that dark, was it, that night?—A. Yes, sir; it was dark, but it seems to me that there was a light out there some way. I don't know where the light was coming from; I don't know whether it was coming from a lantern or something else, but I saw his face. I know it was Lieutenant Grier all right.

Q. Now, when you got down there you looked for the quartermaster-sergeant?—A. When I got down to C Company's barracks, after reporting to the major first—I first reported to the major and got permission to get arms.

Q. But then you looked for the quartermaster-sergeant?—A. Yes, sir.

Q. Did you see him at all?—A. I saw him after I was dismissed.

Q. That was in an hour or two?—A. Yes, sir; more than that; probably two hours.

Q. But you had not seen him in the meantime?—A. No, sir.

Q. You made inquiry for him, did you?—A. Yes, sir.

Q. What did you want of him?—A. I wanted to get some arms of him—wanted to get a revolver.

Q. Why did you go to him for a revolver?—A. Because he keeps the revolvers and guns, especially the revolvers are kept in the store-room under his lock and key.

Q. So that he could have gotten you a revolver if he had wanted to?—A. Yes, sir; he could have gotten me one.

Q. And the revolver was your proper arm?—A. Yes, sir.

Q. As a sergeant-major, because you were to attend the major of the regiment, or really the assistant to the adjutant of the regiment.—
A. Yes, sir.

Q. Then you saw Corporal Brawner?—A. Sergeant Brawner.

Q. He was in charge of quarters, as you understood?—A. Yes, sir.

Q. Where was he?—A. He was at the head of the steps.

Q. He gave you a gun?—A. He directed one of the men who was

there to hand me a rifle and some ammunition, as I could not find the quartermaster-sergeant to get a revolver.

Q. Whereabouts on the steps were you then?—A. I was about midway of the steps—just high enough to reach from the top the rifle and the ammunition.

Q. And he gave you a bandolier of ammunition and a rifle?—A. Yes, sir.

Q. Handed it right out there?—A. Yes, sir.

Q. And you did not see the quartermaster-sergeant at all?—A. I did not see the quartermaster-sergeant, not until after I was dismissed and returned to barracks. Sergeant Brawner directed this private, whom I afterwards found to be Private Jefferson, to hand me the rifle and the bandolier, and he did so, under the charge of Sergeant Brawner, who was in charge of quarters.

Q. And when you were dismissed you returned that gun to the quartermaster-sergeant?—A. Everything, just as I received it.

Q. What did the quartermaster-sergeant do with that gun?—A. I don't know, sir.

Q. Why did you return it to the quartermaster-sergeant?—A. Because he was the proper man to receive it. I did not know whose gun it was nor where it came from. I just knew it was handed to me.

Q. You did not deliver your gun to the officer in charge of the quarters?—A. No, sir.

Q. Did not see him at that time at all?—A. No, sir.

Q. What did the quartermaster-sergeant do with your gun?—A. I don't know what he did with it.

Q. Well, where was he when you delivered it to him?—A. He was at the storeroom, sir.

Q. He took it there in the storeroom?—A. Yes, sir.

Q. And it remained there so far as you know?—A. Yes, sir.

Q. And then you got a pistol from him?—A. Yes, sir; got a revolver from him there. He has the list of numbers of the guns and the names, and he would be able to find out to whom the gun belonged and return it to the proper party. He was the proper man to receive it.

Q. However that may be, he was the party you delivered it to?—A. He was the party I delivered it to.

Q. And to whom did you return your ammunition?—A. The same—to the quartermaster-sergeant.

Q. Now, what was Mitchell's given name?—A. George W.

Q. He was of Company B?—A. Yes, sir.

Q. He was the man who told you this story of seeing these people downtown?—A. Yes, sir.

Q. Did you regard that as important information?—A. I did.

Q. Did you report it to anyone?—A. I told the man to report the circumstance to the adjutant when he went over to deliver the adjutant's mail. He was then distributing the mail and getting ready to deliver it, and I said, "When you go over to the adjutant you report these facts to the adjutant."

Q. And what time in the evening was it then?—A. It was about 8 o'clock, I suppose it might have been a few minutes afterwards.

Q. You knew it was your duty to convey to the adjutant—he was your superior officer—you were directly under the adjutant, were you not?—A. Yes, sir; I was.

Q. You knew it was your duty to convey to the adjutant any important information you received regarding the camp, its safety, or its welfare, did you not?—A. In this respect I did not regard it as important for me to go, because I had heard of the uproar in the town before, between 5 and 6 o'clock that evening. The passes had already been countermanded, the men had all been ordered in, and it was my impression that everybody knew there was a disturbance in the town, and I did not regard it as very important for me to go over and see that this information was carried, because I understood that it was a general understanding that the town was in somewhat of a disturbed condition, but I thought that it was proper for this man to report the circumstances, because he could relate them more definitely and more fully than I could, to the adjutant himself.

Senator WARNER. Will the stenographer please repeat the last question?

The stenographer read the question, as follows:

Q. You knew it was your duty to convey to the adjutant any important information you received regarding the camp, its safety, or its welfare, did you not?

By Senator WARNER:

Q. Did you know that was your duty?—A. Yes, sir; I knew it was my duty in case they did not already have the information at hand; but I had been notified, as I state, through the sergeant of C Company, that the passes had been countermanded, that the town was in an uproar, and that there was liable to be trouble, and I took it for granted that everybody knew the disturbed condition in the town, and that this was no new information.

Q. When did you learn that from the sergeant?—A. Between 5 and 6 o'clock that evening.

Q. Did you convey that information to the adjutant?—A. I did not.

Q. Did you convey it to the major?—A. I did not.

Q. Did you see the adjutant after you received this information?—A. No, sir; I did not.

Q. The adjutant's office was where, with reference to yours?—A. The adjutant's office was in the administration building.

Q. And you were in the same room?—A. In the same building, but not in the same room.

Q. You had a separate room?—A. Yes, sir.

Q. And Major Penrose's office was in there?—A. His office was in the same building; yes, sir.

Q. The adjoining door to yours?—A. Yes, sir.

Q. Did you convey that to Major Penrose?—A. I did not convey any—I did not make any report of any of these things, because the report came—I asked the sergeant where he got his authority from and he said the officer of the day, who was his company commander, delivered the order to him. I heard the sergeant of B Company giving the same sort of orders to his men, about passes being countermanded. I heard the sergeant of Company D giving the same sort of orders to his men, about passes being countermanded, and I took the order to be definite and direct from the commanding officer, and I did not see that it was necessary for me to go around to tell them anything about anything at all, because I understood that

the commanding officer and the officer of the day were in possession of all the facts, and had called the passes in and had refused to allow their men out of garrison.

Q. You understood they were in possession of the facts?—A. That they were in possession of the facts and conditions in the case.

Q. And in possession of the facts about these threats, that were communicated to you by Private Mitchell.—A. I did not know whether they were in communication with that or not; did not think that was anything for me to tell them after hearing what I had from the sergeant of C Company.

Q. But you say you requested Private Mitchell to convey that information to the adjutant?—A. Simply as an additional fact.

Q. As to the danger to the post?—A. Well, I did not know as to danger to the post, but I thought it was an additional fact as to the condition in town and should have been conveyed.

Q. You felt it should have been conveyed?—A. Yes, sir.

Q. But you did not do it?—A. I did not do it myself because I asked the man to give the circumstances himself. He could tell more about it than I could.

Senator WARNER. In this connection I ask to have inserted in the record the testimony of Private George W. Mitchell, Company B, Twenty-fifth Infantry, found on page 161 of Senate Document 155.

Senator FORAKER. I should like to have it read, if it goes in.

Senator Warner read the testimony, as follows:

Private George W. Mitchell, Company B, Twenty-fifth Infantry.

Q. Where were you on August 13, 1906, when shooting commenced?—A. Asleep, sir.

Q. Where?—A. In quarters.

Q. Anybody ever abuse you in Brownsville?—A. No, sir.

Senator SCOTT. Whose testimony is that?

Senator WARNER. That is George W. Mitchell.

Q. Was Mitchell a man given to talking a good deal?—A. No, sir; he was supposed to be a reliable man. He was made orderly and had up to that time a good record, and was regarded as trustworthy.

Q. Where is Mitchell now?—A. He is now a prisoner, I suppose, in Fort Reno, Okla. He was dishonorably discharged and given a sentence of six months confinement.

Q. What for?—A. For leaving the post without permission, while at Reno.

Q. After you left Brownsville?—A. After we moved up to Reno; yes, sir.

Q. That was before the discharge without honor was given to the other members of the company?—A. Yes, sir; before the discharge without honor was given. He was tried by a general court and given a dishonorable discharge for absence without leave.

Q. Did you know the circumstances of his absence?—A. No, sir. From what I could learn he just went down town and stayed down there I think a day, or probably it might have been a day and a half, or something like that.

Q. It was more than an ordinary case of absence or missing of a roll call?—A. It was considered a serious offense, because orders

had been issued from the War Department that these men should be confined to the garrison, and I think that was what made the offense so serious. I would just like to say, Senator—

Q. Certainly.—A. That the privates of course in the service had always been trusted as orderlies on all occasions of duty. Officers sent messages by privates to officers, and of course I did not think it was anything more than right for me to send a message by a private, especially on his regular routine of duty. I had no doubt that the man would do what I told him to do.

Q. What did he say when you told him to do this?—A. I don't remember any expression that he made at all. He was busy sorting the mail and did not say anything to the contrary at all, simply continued his work.

Q. Without making any response?—A. He did not say anything that I remember.

Q. Were you with the Twenty-fifth in its maneuvers at Fort Riley?—A. Yes, sir.

Q. Do you know anything about any trouble there?—A. I heard something about it. I could not give any definite details of it at all.

Q. What was that trouble?—A. Well, I just heard that there was some little enmity existing between the Twenty-fifth Infantry and the Texas militia. As to the details of it I could not give any, because I had never heard anything definite at all, simply some little bad feeling between the troops. I know of no definite instance at all that I could recall to relate.

Q. I notice in your testimony before the court-martial, on page 778, these questions and answers:

Q. So the first firing you heard after this first shot that awakened you was a scattering fire?—A. Yes, sir.

A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. (Reading:)

Q. Did that cease for any time after that?—A. It seemed to continue for several minutes, or quite a number of minutes, probably five minutes or more, this ragged fire near the barracks, and then it seemed to go down into the heart of town, and the volleys that I heard were down in the heart of town—seemed to be a considerable distance down town.

That is correct, is it?—A. Yes, sir.

Q. You do not want to make any correction in that?—A. No, sir.

Q. The volleys that you heard then seemed to be some distance from the fort?—A. Yes, sir.

Q. And the first firing was near the barracks?—A. Yes, sir; the first firing seemed to be up in the neighborhood of the post.

Q. You were in your room at that time?—A. Yes, sir.

Q. Would you attempt to locate the point of the first firing you heard with reference to barracks B, C, or D?—A. Well, it struck me that it was somewhere down in this direction. I could not be definite about it, somewhere over in here [indicating], the first firing I heard.

Q. That is, you mean opposite the open space between the vacant barracks, which have been called barracks 36, and barracks C?—A. Somewhere in that neighborhood of barracks C; I judged from the sound that it seemed to be over there.

Q. And that would have been two or three hundred yards from where you were, would it not?—A. Yes, sir; probably more.

Q. More than that?—A. Yes, sir.

Q. Can you pretend to locate those shots exactly?—A. I would not think of locating them definitely, but I simply give the impression that I had at the time.

Q. The firing may have been back of barracks B?—A. Well, I hardly think it could have been so near, because it would have been plainer to my ears.

Q. It may have been in the mouth of the alley there between Elizabeth and Washington streets?—A. Well, I could not say definitely. As I stated before, my impression was that it was in that direction. I am quite certain it was not as near as B Company barracks.

Q. But it might have been as near as C Company barracks?—A. Yes, sir; it might have been as near as that.

Q. But at any rate, wherever the firing was, it went from the barracks down into the town—that is, the party that was doing the shooting?—A. The last shooting I heard was down in the town—away down in the town. I heard some shots that sounded like they were behind B Company barracks, but they were not the first shots.

Q. You heard of this striking of Newton, didn't you?—A. Yes, sir.

Q. Did you pay any attention to that?—A. No, sir; I did not.

Q. Why not?—A. Because Newton was a man who drank to excess, and I thought he was liable to get into trouble most any place, at any time, and I merely thought that he had been downtown drinking and got into a fight down there and got beat up.

Q. That was his reputation, was it?—A. Yes, sir; that was my opinion of it.

Q. This matter of Reid being pushed off the gang plank into the river, you heard of that, didn't you?—A. Yes, sir.

Q. You heard that Reid had been over to Matamoros and got drunk, didn't you?—A. I heard that he had been drinking and come back on the wharf and had some disturbance on the wharf where the ferries land, and that he was knocked off.

Q. Was Madison with him?—A. I think Madison was with him.

Q. Corporal Madison told you, didn't he, that it was Reid's fault altogether?—A. Yes, sir—that is, he said Reid had been drinking and was raising a disturbance on the wharf; that there was a disturbance on the wharf, and he regarded it as Reid's fault.

Q. I do not know whether I asked you yesterday or not—were you down in the town much when you were at Fort Brown?—A. I went down most every day.

Q. You had no trouble?—A. No, sir; I never had any trouble.

Q. Everybody treated you well?—A. Yes, sir; I had no difficulty with anybody, as I stated yesterday, only certain places I would not be served, that is all.

Q. That is, you would not be served at the same bar?—A. In some places I would not be served at all.

Q. The conditions there were very much similar to what you would have found them at your home in Virginia, were they not?—A. Somewhat, in some respects, but not altogether.

Q. The same as you found them at Valentine?—A. Well, of course there was a considerable difference between Valentine and Brownsville.

Q. What was the difference?—A. Well, this treatment of men, in going in stores, was different from the treatment in Valentine.

Q. When you speak of stores, you mean saloons?—A. Well, yes, sir; not only saloons, but I heard of instances among stores where they were not——

Q. You went into stores, didn't you?—A. Yes, sir.

Q. You had no trouble, had you?—A. I had no trouble in any of the stores I went into, but I went into very few stores.

Q. But those you did go into?—A. Those I did go into, I had no trouble in them.

Q. No trouble whatever?—A. No, sir.

Q. Did you see this patrol when it went out?—A. I saw some patrols going out that night.

Q. Did they have their guns with them?—A. Yes, sir.

Q. Now, I do not mean when Captain Lyon's company went.—A. I understand, sir, before the disturbance took place.

Q. Before 8 o'clock?—A. I don't know whether it was before 8 o'clock. It may have been after 8 o'clock. I saw some patrols. I don't know exactly what hour it was. It was quite late in the night I saw some patrols going out.

Q. Let us see. The order was that they were to be in the barracks at 8 o'clock?—A. Yes, sir.

Q. And all passes were to be canceled?—A. Yes, sir.

Q. You saw the patrols going out later than that?—A. I don't know exactly whether it was or not; I would not be positive.

Q. Let us have your best memory of that.—A. I could not be positive; I would not like to state. It seemed to me to be quite late when I saw some patrols going out.

Q. What time would you say?—A. As I have said, I could not tell the time. I was not noticing the clock. I was not noticing the watch at all, and I don't know really what hour the last patrol did go out. The sergeant of the guard or the corporal of the guard could give definite information.

Q. Who were those patrols?—A. I don't know, sir; I did not even notice the faces of the men to see.

Q. But they had their guns with them?—A. They were guards; I could tell, because they were armed and seemed to be under the charge of a noncommissioned officer.

Q. You knew the noncommissioned officer?—A. No, sir; I didn't know that.

Q. Where were you when you saw these men go out?—A. I think I was on C Company's porch when I saw a patrol pass.

Q. On C Company's porch you saw a patrol pass?—A. Yes, sir.

Q. Which way did they come from?—A. Came from the guard-house.

Q. How many of them?—A. I think there were four or five; seemed to be four or five in the patrol.

Q. Did you ever make any inquiry about that afterwards?—A. No; I did not.

Senator WARNER. I think that is all I care about asking.

By Senator FOSTER:

Q. What time did you retire that night?—A. I think it was nearly 11 o'clock, sir.

Q. After check?—A. No, sir; it was before check.

Q. Anybody else sleeping in the administration building besides

yourself?—A. No, sir; sleeping alone; nobody else in the building but me.

Q. About what time did I understand you to say that you were aroused?—A. I could not tell what time I was aroused. I had no watch—my watch was not running—and I did not look at the clock in the building. It was dark, and when I went into the room to get my belt I did not look at the clock there; did not take time to make any light. The first information I got of the time was when Major Penrose looked at his watch, and I understood him to say either 12.10 or 12.15, one or the other.

Q. You were first aroused by one shot?—A. Yes, sir.

Q. Then you heard ragged firing?—A. Yes, sir.

Q. Were you dressed at that time?—A. When I heard the one shot?

Q. No; when you heard the ragged firing.—A. No, sir; I did not get up until I heard the ragged firing. I did not get up when I heard the one shot. I did not think it necessary.

Q. Did you leave your room before you dressed?—A. No, sir; I dressed before leaving the room.

Q. Were you fully dressed?—A. No, sir; I did not tie my shoes and I did not put on my leggings. I simply put on my blouse and trousers and put my shoes on untied and got my belt in a hurry, and went right on to the major's quarters.

Q. How long after the first shot was it that you heard Tamayo and his cart coming?—A. I couldn't give the time definitely, but it was a very short time, probably a minute or so. I don't think it could have been more, hardly, than two minutes.

Q. He was coming towards the administration building, was he not?—A. I couldn't tell what direction he was going. He seemed to be in rear of B and D companies' barracks when I heard the noise, but I couldn't tell what direction he was going, because I wasn't paying much attention to it.

Q. Believing that this was artillery, you didn't pay much attention?—A. I was just after getting out of the way.

Q. You were thinking more of getting out of the way?—A. I wanted to find Major Penrose; yes, sir.

Q. You thought that it was a Gatling gun, you say?—A. I really thought it was some kind of machine gun, or some kind of piece of artillery, when I heard the noise.

Q. You were still in your room, then?—A. Yes, sir.

Q. When you came out did you make any efforts to find out where this supposed artillery or machine gun was?—A. No, sir; I went posthaste to the major's quarters.

Q. Did you investigate around the quarters to see?—A. I didn't stop to investigate anything there at all. I went posthaste to the major's quarters first to see if I could find him.

Q. Are there any trees in front of the administration building?—A. Yes, sir.

Q. Did you see that scavenger cart before the building?—A. I didn't go out in front of the building. I went out the end.

Q. At the end of the building?—A. Yes, sir.

Q. Did you see the scavenger cart there?—A. No, sir; I didn't even look back that way. I went out the end door toward the officers' quarters.

Q. Now, repeat again, please, exactly what you heard this man say about the men—"Come out; I want to get them all," or—A. I heard the words "I want all of you; I want all of you." I heard that called three distinct times while I was dressing.

Q. Now, locate the man saying that, as near as you can.—A. The sound seemed to come from some position over here, near this gate that leads out into Elizabeth street [indicating on map]. I don't know; I couldn't locate him any more definite than that; somewhere in that direction.

Q. Was that before or after you heard this rumbling of the scavenger cart?—A. The two were so near together that I really couldn't distinguish. Both might have been going on at the same time.

Q. Could you have heard him make this exclamation above the noise of the scavenger's cart?—A. Why, yes, sir; I could have heard them both at the same time.

Q. Then did you hear any shots on the inside of the reservation that night?—A. No, sir; I didn't hear any bullets. Do you mean bullets or reports of guns?

Q. Reports of guns.—A. I couldn't distinguish any reports of guns on the inside of the quarters. I don't know; there might have been some, but I couldn't tell.

Q. Did you hear a report of any gun near barracks D or B within the quarters?—A. In the quarters?

Q. Yes.—A. No, sir; I don't remember hearing any in the quarters that I could positively say were in the quarters.

Q. If there had been any fired there would you have heard it?—A. I could not say that I would have heard it. I heard so many in that direction I couldn't have distinguished whether they were in the quarters or out of the quarters.

Q. Do you know Howard?—A. Yes, sir.

Q. Do you know whether he was on duty that night as a sentinel?—A. He was on duty; yes, sir.

Q. Did you see him?—A. Yes, sir.

Q. Where did you see him?—A. I saw him in rear of D Company's barracks.

Q. At what time?—A. That was after the shooting had ceased.

Q. After the shooting had ceased?—A. Yes, sir.

Q. Did you see him before you went to bed that night?—A. I don't remember seeing him before I went to bed that night.

Q. When you heard this voice say, "I want you all"—is that what it was?—A. "I want all of you."

Q. "I want all of you?"—A. "I want all of you."

Q. Was this before the bugle sounded or after the bugle sounded?—A. After the bugle sounded.

Q. After the bugle sounded?—A. Yes, sir.

Q. Then you were in your room?—A. Yes, sir.

Q. Did you hear Howard give any alarm that night?—A. I couldn't distinguish any alarm. I didn't hear anything that I could say that he did or said—anything at all.

Q. Did you hear three reports of a rifle that night near quarters B—barracks B—on the inside of the quarters, inside of the reservation?—A. There was so much firing after this rapid firing commenced that I couldn't have distinguished those three shots even if they had been fired.

Q. Was that rapid firing going on when the scavenger's cart was coming your way?—A. Yes, sir.

Q. If he had given out an alarm in a loud voice, why could you not have heard him as well as you could have heard this man saying "I want all of you?"—A. Why, I don't know why I couldn't have heard it.

Q. How was that statement, or command, or whatever you might call it, given; in a loud voice?—A. Yes, sir; very loud.

Q. Very loud?—A. Yes, sir.

Q. You said it was a kind of a guttural?—A. Yes, sir; bass.

Q. A bass, guttural voice?—A. Yes, sir; deep.

Q. Had you ever heard such a voice as that before in any of the men in your battalion?—A. I didn't recognize it as familiar at all.

Q. Was it a familiar voice?—A. I say I didn't recognize it as familiar at all. It sounded like a stranger's voice to me.

Q. What was there in the tones or the intonation that would make you believe it was a stranger's voice?—A. It just impressed me as if it was a call for my life. It impressed me that way, just as if a man would come up and call you out at night, and be firing at the same time. It struck me as a call for my life, and that is the reason it impressed itself so upon me.

Q. Did you ever make that statement to any of the officers of your command?—A. I made that statement—

Q. Wait a moment. Did you ever make that statement to any of the officers of your command prior to your statement or affidavit before Colonel Lovering?—A. I made that statement to Major Penrose that same night. That same night.

Q. You told Major Penrose that same night?—A. That same night.

Q. That you heard this voice?—A. Yes, sir.

Q. Yelling out?—A. Yes, sir.

Q. "I want all of you?"—A. Yes, sir.

Q. Well, you thought at that time it was a demand or call of this man upon you for your life?—A. Yes, sir. I regarded it as a call for my life, and the life of every man in the garrison.

Q. And then you heard this rumbling of this scavenger's cart?—A. Yes, sir.

Q. You thought that was the approach of some kind of artillery?—A. Some more danger; yes, sir.

Q. Some more danger?—A. Yes, sir.

Q. And you remained in your quarters, quietly dressing?—A. No, sir; I was not quietly dressing; dressing just as rapidly as I could.

Q. And then you left your quarters and went over to the quarters of Major Penrose?—A. Yes, sir.

Q. Now, you stated something about your maneuvering around there?—A. Yes, sir.

Q. What do you understand by your maneuvers; what were you doing; what were your maneuvers?—A. Well, I was trying to keep on low ground, to keep high ground between me and the firing, and at the same time look to the right, and try to see where the major was, with the battalion, whether he had his battalion out, whether they were deployed, which way they were facing, which way they were firing, or were they firing or were they not firing.

Q. When you were maneuvering around there, did you have any apprehension that this Gatling gun or machine gun would be turned loose on you?—A. Yes, sir; I did. I didn't know what to expect.

Q. But you kept down, then, in the low ground?—A. I kept low, and was looking to the right and left, and every way, trying to find out where the major was.

Q. Were you standing erect or stooping down?—A. I was stooping, and then when I would go on I would go at a run, and then I would stop to look, and then I would stoop and run again. That is what we call "maneuvering."

Q. You were all alone out there?—A. All alone; yes, sir.

Q. Were you maneuvering so as to find the major, or so as to protect yourself?—A. I was maneuvering to do both—to protect myself and to find the major, too. I didn't know, as I say, but what he had the battalion out in line, or but what they were ready to fire.

Q. Did you ever look back to see whether or not that supposed Gatling gun was following you in your maneuvers?—A. Well, I was leaving that noise behind me all the time, and I threw the buildings between me and the noise there as I went down.

Q. You threw what buildings between you and the noise?—A. I threw the officers' line. I went in rear of the officers' line. I didn't go in front, here; I left this end door and went in rear, here [indicating on map].

Q. Oh, you went in rear?—A. Yes, sir; so as to throw the line of buildings between me and the fire.

Q. Yes.—A. And I came around here.

Q. Yes.—A. To Major Penrose's quarters, and not finding him there, then I didn't know where to go, and I thought I would start out to look for him.

Q. You didn't go in front of the officers' quarters?—A. No, sir; I went in rear.

Q. Was that to protect yourself?—A. To protect myself from the line of fire, as I supposed, and at the same time to make my point.

Q. Did you not have the Gatling gun in view then, too?—A. I had everything in view I had heard behind me, and that was the reason I was throwing obstacles between me and the fire.

Q. Then at that time the firing was over.—A. It seemed to be over in rear of B Company.

Q. In the city?—A. It seemed to be over in rear of B Company's barracks. I couldn't tell where it was. It was over there in that direction.

Q. So that you had between you and the firing the barracks and the officers' quarters and the moat?—A. Well, the moat—

Q. During your maneuvers out there?—A. I struck the moat after leaving Major Penrose's.

Q. Yes.—A. I had the buildings between me and the firing going down there; but after leaving his quarters I had nothing really but the moat.

Q. The moat afforded you pretty good protection, did it not?—A. Yes, sir.

Q. Do you think that you would have gone to the guardhouse after you left the buildings as a protection if that moat had not been there? Would it have been safe, in your judgment?—A. I would

have gone there, safe or not safe. That is my idea about everything; I take cover when I can get it, and when duty calls me where I can not get cover, I expose myself.

Q. Duty called you down to the guardhouse that time?—A. Yes, sir.

Q. Did you go directly from the rear of these quarters in a straight line to the guardhouse?—A. I did, sir.

Q. Or did you go over to the hospital?—A. I went in a round-about line there, as I say; I maneuvered on the low ground, and when I left the moat I passed, of course, very near toward the line, down toward the guardhouse there, and came up to the guardhouse, and the post-exchange buildings, of course, were affording me protection to get around there.

Q. Was that the time you met this man Mitchell—was it Harding?—A. Harding; yes, sir; of B Company. He approached me from the hospital porch.

Q. From the hospital porch?—A. Yes, sir.

Q. Was that before or after you got to the guardhouse?—A. That was before I got to the guardhouse.

Q. Where were you standing when he approached you and you first saw him?—A. I couldn't really tell the exact place. It was somewhere in that neighborhood; right in here; somewhere down in that direction, right along in there [indicating]. I couldn't say exactly, because I wasn't paying very much attention to where I was standing at the time. My ideas were all on finding the major and finding the battalion and getting some real information as to what the conditions were.

Q. If you were in a hurry to find the major and went to the guardhouse for that purpose, you did not, then, take the most direct course?—A. No, sir; I took the safest course.

Q. You took the safest course?—A. The safest course.

Q. You were having the moat, then, as a protection?—A. Yes, sir; my idea was to—

Q. How far did that moat extend? Does that moat extend up to the hospital?—A. I don't think it goes clean up to the hospital; no, sir; it branches off there and goes somewhere down toward the lagoon, and then it goes around in front of the guardhouse. They join. One goes along in front of the guardhouse and joins the prolongation of the officers' line.

Q. Is the porch of the hospital in front or in rear of the hospital, or does it extend all around?—A. I think it extends all around.

Q. Are you certain of that?—A. I think I am; yes, sir. There are long columns extending, I think, almost clear around the building. I am quite certain of it; certainly on the front side and along the lengthwise; that is, on the end here and down the other way [indicating].

Q. I believe you stated that the bugle had sounded before you left your room?—A. Yes, sir.

Q. And when you got to the guardhouse you found two men lying prone upon the ground?—A. I saw two distinctly, and there might have been more; but it was dark, and I couldn't say that I saw but two privates of the guard. I saw also the sergeant and the corporal of the guard.

Q. You went from the guardhouse, then, to the barracks?—A. Yes, sir.

Q. And was the firing going on all that time?—A. Yes, sir; the firing had gone down into the town. When I got up near Major Penrose, near the barracks, the firing was no longer near the post, but it seemed to be down in the town quite a distance.

Q. Could you tell from the sound of this voice whether the voice came from a soldier, or a Mexican, or a white citizen? Did you form some kind of judgment from the sound?—A. Well, I was quite certain it was not from a Mexican, because it had no taint of foreign accent at all; it was pure English. I couldn't tell, of course. The only reason I say I don't think it was a soldier was because it was not a familiar voice to me.

Q. What is that?—A. The voice was not familiar to me.

Q. You are pretty familiar with the voices of the men?—A. Yes, sir; most of them I am. It struck me, of course, as being a stranger's voice. Of course that is all I can say.

Q. You paid particular attention to the voice?—A. Yes, sir.

Q. Did you not?—A. Yes, sir. Of course I couldn't help but pay particular attention to it, because I was alone in the building there; I didn't have any defense whatever; I didn't have any firearms or any effectual protection at all, and it seemed to me, as I say, as though it was a great danger.

Q. Did I understand you to say that the patrols had their guns when they went out in town?—A. Yes, sir; the patrols I saw going out had their guns.

Senator FOSTER. That is all.

By Senator FRAZIER:

Q. How far was it, Sergeant, according to your best estimate, from your room in the administration building to the western end of B Company's barracks?—A. That is to the first end of B Company's barracks?

Q. Yes; the end nearer to D Company?—A. I would say probably about near in the neighborhood of 175 yards—150 yards—something like that. I couldn't say definitely.

Q. The firing that you heard after the first shot you could not locate definitely?—A. No, sir.

Q. As I believe you stated?—A. Yes, sir.

Q. You thought it was somewhere in the rear of C Company barracks; in that neighborhood?—A. The first shot seemed to be down that far.

Q. And then you thought that the other shots—A. Seemed to be a little nearer.

Q. They seemed to you to be a little nearer?—A. Yes, sir.

Q. Possibly in the rear of B Company?—A. Yes, sir.

Q. Now, the voice that you heard calling out "I want all of you?"—A. Yes, sir.

Q. Was that before or after you heard the first of this cart's noise?—A. I couldn't state, as I have said before, whether it was before I heard the noise of the cart or after the two were so close together—and, in fact, they might have been going on at the same time. They were very close together.

have gone there, safe or not safe. That is my idea about everything; I take cover when I can get it, and when duty calls me where I can not get cover, I expose myself.

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Q. Did you go directly from the rear of these quarters in a straight line to the guardhouse?—A. I did, sir.

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Q. Possibly in the rear of B Company?—A. Yes, sir.

Q. Now, the voice that you heard calling out "I want all of you?"—A. Yes, sir.

Q. Was that before or after you heard the first of this cart's noise?—A. I couldn't state, as I have said before, whether it was before I heard the noise of the cart or after the two were so close together—and, in fact, they might have been going on at the same time. They were very close together.

Q. What time did you hear that voice calling out, in relation to this second series of shots after the first single shot that you heard?—A. Well, it was toward the latter part, the last of it. I was nearly dressed and ready to leave the building when I heard the voice.

Q. You were nearly dressed and ready to leave the building when you heard the voice?—A. Yes, sir.

Q. You can not state whether that was before or after you heard the noise of the cart?—A. I could not; no, sir; they were very close together, and I wouldn't say. They might both have been going on at the same time.

Q. Now, from the noise of the firing you located that somewhere, at that time, in the rear of B Company barracks?—A. Up to the last part, the time I left the building.

Q. Immediately preceding the time you left the building?—A. I left the administration building; yes, sir.

Q. Now, in locating the voice, was that in the same apparent location as the shots?—A. It seemed to be.

Q. It seemed to be in that general direction?—A. It seemed to be in that general direction; yes, sir.

Q. If anyone had been at the corner of B Company barracks, near the western end of B Company barracks, close to the gate, that person would have been nearer the voice than you were in the administration building, would he not?—A. Yes, sir.

Q. By some 175 yards?—A. Yes, sir.

Q. And could therefore have heard it more distinctly than you heard it?—A. It seems that they should, under ordinary circumstances.

Q. Now, anyone in B Company barracks, either on the porch or near the doors or the windows of B Company barracks, would have been nearer, much nearer, to that voice than you were?—A. Yes, sir; he would have been nearer than I was.

Q. And that voice would have been easier to hear by those persons in B Company barracks than by you at that distance, would it not?—A. No, sir; I do not think so.

Q. You do not think so?—A. No, sir.

Q. Why not?—A. Because there were 50 or 60 men in each one of those buildings getting their rifles out, rustling their shoes, making a noise, asking "What's the matter?" making all kinds of disturbance.

Q. How do you know that?—A. That is what was going on, I learned. From the call to arms the men were getting ready.

Q. The call to arms had already been sounded when you heard this voice?—A. Yes, sir; and the men were evidently getting out of their barracks.

Q. You merely imagine that?—A. Yes, sir; I was simply stating the circumstances that might have prevented men in the building from hearing it as well as myself. There was no noise around me at all, no intervening lesser sounds to prevent me from hearing this voice, and, in fact, the walls of the building acted as a sounding-board.

Q. Now, the call to arms had already been sounded, as I understand, before you heard this cry?—A. Yes, sir.

Q. Before you heard the man cry out?—A. Yes, sir; the call to arms had been sounded before that.

Q. And you had not then heard any call up between B and C Companies' barracks?—A. Not until after the call to arms.

Q. Did you hear anyone holler up there, make any outcry about the guard, or call the guard?—A. No, sir; I didn't hear anything of that sort.

Q. You did not hear that?—A. No, sir.

Q. You did not hear any gun fired that appeared to be either between B and C Company barracks or out in the parade ground in front of B Company barracks?—A. There was so much firing going on at the time, the noise was so great as to the firing, I couldn't distinguish whether a shot was inside or outside of the wall. I couldn't begin to distinguish.

Q. Then you could not tell, you could not distinguish really, whether these shots you heard between B and C Company barracks were inside of or outside of the reservation?—A. I could not; no, sir.

Q. You could not?—A. No, sir.

Q. They might have been fired from the rear of the barracks, from the porch, or between the barracks and the wall?—A. Yes, sir; they might.

Q. So far as you know?—A. So far as I know.

Q. You couldn't tell about that at all?—A. No, sir.

Q. You only state that according to your best judgment they were in that direction?—A. Yes, sir.

Q. And your best judgment is that the voice was in that general direction?—A. Yes, sir.

Q. And you could not undertake to locate definitely and distinctly where that voice was?—A. No, sir; I could not locate definitely where that voice was.

Q. How soon after this second firing, which followed the first shot that you speak of, did you hear this cart rattling, making so much noise?—A. You mean from the first shot up to the time I heard the noise?

Q. No; how soon after the second series of shots you speak of?—A. It was a very short time; probably not more than hardly two minutes.

Q. Hardly more than two minutes?—A. No, sir; I couldn't state distinctly. It was a very short time.

Q. Did that cart pass in front or in rear of the administration building?—A. I couldn't tell that, either.

Q. Did the noise cease or continue?—A. The noise ceased. I really don't know whether the noise ceased or whether I left the noise.

Q. You don't know whether you ran off and left the noise or whether the noise ceased?—A. No, sir.

Q. But you ceased to hear it?—A. Yes, sir; I ceased to hear it.

Q. Could you tell from the noise of the cart, which you said made so much noise that you thought it was a piece of artillery of some kind, whether it passed in front of the administration building?—A. I could not tell whether it passed in front or in the rear.

Q. You could not tell?—A. No, sir.

Q. Is there a road extending down from B Company barracks toward the Rio Grande River on the inside of the reservation?—A. From B Company barracks?

Q. Just west of B Company barracks.—A. Is there a road coming down toward the Rio Grande River?

Q. Yes; on the inside of the reservation, behind D Company barracks?—A. There is a road coming down toward the Rio Grande River in rear of B and D. It is not a public road.

Q. You could not tell from the noise of the cart whether the cart went down that road or whether it went down the road in front of the administration building?—A. I could not, because I left about the same time.

Q. You left about the same time you heard this noise?—A. Yes, sir.

Q. Was that noise loud? Did it make a great deal of rattling?—A. Yes, sir; I say it sounded like the rumbling of some kind of a wheeled concern, and I didn't know what it was at the time.

Q. And you are satisfied that the cart was moving at a rapid gait?—A. Yes, sir; it was moving at a rapid gait.

Q. The horse or mule that was pulling it was not walking?—A. No, sir; he wasn't walking.

Q. He was running?—A. Yes, sir.

Q. You are sure of that?—A. Yes, sir; he was moving very rapidly.

Q. About what is the distance from the administration building to the rear, first, of the officers' quarters? I believe it is marked on that map "O," if I can see it correctly from here.—A. I would put that at about 50 yards.

Senator SCOTT. That map is drawn on a scale of 30 feet to the inch. Perhaps that will help you. The Senator is asking these questions about distances, and you can easily find what the distance is with a rule.

By Senator FRAZIER:

Q. What is your best judgment?—A. My best judgment would make it probably 50 yards. It might be less or more.

Q. As I understand you, in leaving the administration building you came out at the door leading toward the officers' quarters?—A. Yes, sir.

Q. And went in rear of the officers' quarters?—A. Yes, sir.

Q. To Major Penrose's quarters?—A. Yes, sir.

Q. Now, you went around his house?—A. Yes, sir.

Q. On the side next to the hospital?—A. Yes, sir.

Q. And came to the front door?—A. Yes, sir.

Q. Had you seen anyone at all up to that time?—A. No, sir.

Q. You had not?—A. No, sir.

Q. What did you do when you got to the front door?—A. I knocked on the door and called the major.

Q. Was there a porch in front of the building?—A. Yes, sir.

Q. You went up to the door?—A. Yes, sir.

Q. Was there any bell, or anything of that sort?—A. I believe there was a bell.

Q. Did you ring the bell?—A. Yes, sir; I believe I rang the bell. I called the major, and knocked and rang, too.

Q. Did you stay there long enough to see whether there was any response to that knock and ring?—A. I didn't remain very long, only a few seconds, but long enough, what I considered to be sufficient, to satisfy myself that he wasn't in there.

Q. Was the door closed?—A. I don't know whether the door was closed or open.

Q. Was there a light in the house?—A. Yes, sir.

Q. There was a light in the house?—A. Yes, sir.

Q. You did not go in?—A. No, sir.

Q. Did you holler out?—A. Yes, sir; I called aloud for him.

Q. There was no response?—A. No, sir.

Q. As far as you heard?—A. No, sir.

Q. Then you did not go, as I understand you, from that porch directly to the guardhouse?—A. No, sir.

Q. But you went back by the side of the house toward the rear and got in the moat?—A. Yes, sir; not down in the moat, but I threw the high ground of the moat between me and the firing that I heard.

Q. You got on the low ground?—A. Yes, sir; on the low ground.

Q. And continued from there up to the hospital?—A. Yes, sir; in that direction.

Q. About how far is that from Major Penrose's house?—A. I don't know. I couldn't give an exact estimate there. It might be probably something like 150 yards, or it might be more.

Q. Now, you said—I believe I so understood you, and if I did not understand you correctly you can correct me—that you did not know when you got to Major Penrose's house and found he was not there but what he had his command out?—A. Yes, sir.

Q. And had them formed?—A. Yes, sir.

Q. When you found that he was not at his house and you supposed that he might have his command out, where did you suppose he would likely have his command?—A. I thought probably he would have his command somewhere back there, probably on the parade ground or probably down there in the open space between the barracks and the guardhouse. I couldn't tell where.

Q. The most likely place would have been in front of the barracks on the parade ground, would it not?—A. Not if he were deploying for action.

Q. Not if he was deployed for action?—A. Yes, sir.

Q. Where did you think that he would have deployed for action?—A. Some place where he could protect his men and get a good line of fire.

Q. You did not expect to find him on the parade ground?—A. No, sir; I didn't expect to find him on the parade ground, nor anywhere in front of the barracks, not if he had deployed for action. I thought he would have deployed them, most likely, somewhere in rear of that moat.

Q. You thought he would have followed your example and gotten shelter?—A. Yes, sir; if there was danger that he would have deployed them in a safe position.

Q. When you left the hospital after speaking to Private Harding, who was standing on the porch of the hospital—A. He approached me from the porch.

Q. Did he get off of the porch?—A. Yes, sir; as I saw him he approached me and I approached him.

Q. How far from the hospital did he come?—A. I said a minute ago that I couldn't tell exactly the position he was standing or I was standing. At this time my mind wasn't really on anything but looking for the major and looking out for where the men were.

Q. And you were looking back in there to find the major and the men?—A. Looking anywhere I could. My mind was lost then as to where to find them.

Q. In going from the hospital to the guardhouse, did you go in rear of the exchange?—A. I didn't go behind the exchange, but I came in front of the exchange.

Q. You came in front of the exchange to the guardhouse?—A. I think I came in front of the exchange.

Q. You are not sure of that?—A. Yes, sir; I am quite sure I came in front of the exchange.

Q. And when you got to the exchange you found Sergeant Reid there?—A. No, sir; at the guardhouse.

Q. I mean at the guardhouse.—A. Yes, sir.

Q. And these two men you saw lying on the ground?—A. Yes, sir.

Q. Now, did you stop and speak to Sergeant Reid there?—A. Yes, sir; I spoke to Corporal Wheeler and Sergeant Reid both.

Q. Did either of them go with you from there toward C Company barracks?—A. Sergeant Reid did.

Q. Did he go all the way with you?—A. Until I met Lieutenant Grier.

Q. You met Lieutenant Grier?—A. Yes, sir.

Q. And when you got to C Company barracks and in front of it on the parade ground, I believe I understood you to say that they were forming then?—A. Yes, sir.

Q. Do you remember whether the roll was being called?—A. No, sir; there wasn't any roll being called at C Company.

Q. Not any roll?—A. Not at that time.

Q. Did you find Major Penrose there, or did you go farther?—A. I found Major Penrose opposite the interval between B and C Company barracks.

Q. Between B and C Company barracks?—A. Yes, sir.

Q. What was the condition of B Company when you got there between B and C Company barracks, as to the formation?—A. I didn't go up in front of B Company, really. They seemed to be forming. It seemed somebody was calling the roll of B Company.

Q. They seemed to be forming?—A. Yes, sir; like the other companies.

Q. Now, you spoke of there being a disturbance in the town that night. Did you learn of any particular disturbance except from this man, the mail carrier, Mitchell?—A. And the report that Sergeant Wheeler, of C Company, made to me while at the supper table.

Q. What was that report?—A. He said that all passes had been countermanded, and the men were ordered to be in the barracks by 8 o'clock, and no man would be allowed to go out thereafter. I said to him, "What is the matter?" He said, "It is reported that some soldier has frightened a white lady on a horse downtown, and there is likely to be trouble." I said, "Where did you get your authority for that?" He says, "Captain Macklin, the officer of the day, was just here a few moments ago and told me this." I said, "I haven't heard anything of that," and he says, "Well, it is so."

Q. That is all you heard with reference to any disturbance in town?—A. From Sergeant Wheeler and Private Mitchell.

Q. And Private Mitchell?—A. Yes, sir; he said that the officer of the day delivered the information to him, and he was the commander of C Company and also officer of the day.

Q. You were not down in town after that time?—A. Not after 8 o'clock. I wasn't out in town after dark.

Q. Where was it that you met Corporal Madison?—A. It was on this road here, between the town and the fort; I think, right here [indicating on map].

Q. What time was it?—A. That was before dark.

Q. Before dark?—A. Yes, sir; it was some time after supper, early, before dark. I met him there and delivered the commanding officer's orders to him and told him I understood it was the orders of the commanding officer that he should be in barracks before 8 o'clock.

Q. Did he return, or continue on his way?—A. I couldn't say whether he returned or not. I delivered the message to him.

Q. Which way was he going when you met him?—A. He was standing still when I spoke to him.

Q. Did you leave him standing still?—A. Yes, sir; I left him there and came on back to quarters.

Q. You spoke of being refused to be served at the bars in that city. Did you hear that discussed among the men?—A. Well, I didn't hear any general discussion on the subject, only the same remark that I have mentioned. Several of them, of course, reported the same thing.

Q. Did or did not the men like that, or did they resent it?—A. They simply said they would go where they would be served. That is what I did. That is what most of the others did.

Q. Did you hear any expression to the effect that they were pleased with that treatment or displeased with it?—A. I heard no expressions other than that they said they would not patronize them; they would go where they would be served.

Q. Was there any discussion about the starting of a bar by anyone connected with the soldiers?—A. I didn't hear anything about that, and I didn't know anything about the bar being established until after it was established.

Q. You did not hear of the bar until after it was established?—A. No, sir; I did not hear of the bar until after it was established.

Q. You did not hear it discussed at all among the soldiers?—A. No, sir.

Q. Did you hear the soldiers discussing it after it was established?—A. I heard them say that this saloon had been opened, of course, and that they would patronize it.

Q. Were you in that saloon after it was established?—A. I was, at one time.

Q. Just one time?—A. I don't know; it might have been oftener. I don't remember now distinctly but once.

Q. How long was it before this shooting that you were there?—A. I don't know, sir; probably two or three days.

Q. Were there a large number of soldiers there at the time?—A. No, sir; not very many there.

Q. Was it day or night?—A. In the day.

Q. Was that rapid firing going on when the scavenger's cart was coming your way?—A. Yes, sir.

Q. If he had given out an alarm in a loud voice, why could you not have heard him as well as you could have heard this man saying "I want all of you?"—A. Why, I don't know why I couldn't have heard it.

Q. How was that statement, or command, or whatever you might call it, given; in a loud voice?—A. Yes, sir; very loud.

Q. Very loud?—A. Yes, sir.

Q. You said it was a kind of a guttural?—A. Yes, sir; bass.

Q. A bass, guttural voice?—A. Yes, sir; deep.

Q. Had you ever heard such a voice as that before in any of the men in your battalion?—A. I didn't recognize it as familiar at all.

Q. Was it a familiar voice?—A. I say I didn't recognize it as familiar at all. It sounded like a stranger's voice to me.

Q. What was there in the tones or the intonation that would make you believe it was a stranger's voice?—A. It just impressed me as if it was a call for my life. It impressed me that way, just as if a man would come up and call you out at night, and be firing at the same time. It struck me as a call for my life, and that is the reason it impressed itself so upon me.

Q. Did you ever make that statement to any of the officers of your command?—A. I made that statement—

Q. Wait a moment. Did you ever make that statement to any of the officers of your command prior to your statement or affidavit before Colonel Lovering?—A. I made that statement to Major Penrose that same night. That same night.

Q. You told Major Penrose that same night?—A. That same night.

Q. That you heard this voice?—A. Yes, sir.

Q. Yelling out?—A. Yes, sir.

Q. "I want all of you?"—A. Yes, sir.

Q. Well, you thought at that time it was a demand or call of this man upon you for your life?—A. Yes, sir. I regarded it as a call for my life, and the life of every man in the garrison.

Q. And then you heard this rumbling of this scavenger's cart?—A. Yes, sir.

Q. You thought that was the approach of some kind of artillery?—A. Some more danger; yes, sir.

Q. Some more danger?—A. Yes, sir.

Q. And you remained in your quarters, quietly dressing?—A. No, sir; I was not quietly dressing; dressing just as rapidly as I could.

Q. And then you left your quarters and went over to the quarters of Major Penrose?—A. Yes, sir.

Q. Now, you stated something about your maneuvering around there?—A. Yes, sir.

Q. What do you understand by your maneuvers; what were you doing; what were your maneuvers?—A. Well, I was trying to keep on low ground, to keep high ground between me and the firing, and at the same time look to the right, and try to see where the major was, with the battalion, whether he had his battalion out, whether they were deployed, which way they were facing, which way they were firing, or were they firing or were they not firing.

Q. When you were maneuvering around there, did you have any apprehension that this Gatling gun or machine gun would be turned loose on you?—A. Yes, sir; I did. I didn't know what to expect.

Q. But you kept down, then, in the low ground?—A. I kept low, and was looking to the right and left, and every way, trying to find out where the major was.

Q. Were you standing erect or stooping down?—A. I was stooping, and then when I would go on I would go at a run, and then I would stop to look, and then I would stoop and run again. That is what we call "maneuvering."

Q. You were all alone out there?—A. All alone; yes, sir.

Q. Were you maneuvering so as to find the major, or so as to protect yourself?—A. I was maneuvering to do both—to protect myself and to find the major, too. I didn't know, as I say, but what he had the battalion out in line, or but what they were ready to fire.

Q. Did you ever look back to see whether or not that supposed Gatling gun was following you in your maneuvers?—A. Well, I was leaving that noise behind me all the time, and I threw the buildings between me and the noise there as I went down.

Q. You threw what buildings between you and the noise?—A. I threw the officers' line. I went in rear of the officers' line. I didn't go in front, here; I left this end door and went in rear, here [indicating on map].

Q. Oh, you went in rear?—A. Yes, sir; so as to throw the line of buildings between me and the fire.

Q. Yes.—A. And I came around here.

Q. Yes.—A. To Major Penrose's quarters, and not finding him there, then I didn't know where to go, and I thought I would start out to look for him.

Q. You didn't go in front of the officers' quarters?—A. No, sir; I went in rear.

Q. Was that to protect yourself?—A. To protect myself from the line of fire, as I supposed, and at the same time to make my point.

Q. Did you not have the Gatling gun in view then, too?—A. I had everything in view I had heard behind me, and that was the reason I was throwing obstacles between me and the fire.

Q. Then at that time the firing was over?—A. It seemed to be over in rear of B Company.

Q. In the city?—A. It seemed to be over in rear of B Company's barracks. I couldn't tell where it was. It was over there in that direction.

Q. So that you had between you and the firing the barracks and the officers' quarters and the moat?—A. Well, the moat—

Q. During your maneuvers out there?—A. I struck the moat after leaving Major Penrose's.

Q. Yes.—A. I had the buildings between me and the firing going down there; but after leaving his quarters I had nothing really but the moat.

Q. The moat afforded you pretty good protection. did it not?—A. Yes, sir.

Q. Do you think that you would have gone to the guardhouse after you left the buildings as a protection if that moat had not been there? Would it have been safe, in your judgment?—A. I would

have gone there, safe or not safe. That is my idea about everything; I take cover when I can get it, and when duty calls me where I can not get cover. I expose myself.

Q. Duty called you down to the guardhouse that time?—A. Yes, sir.

Q. Did you go directly from the rear of these quarters in a straight line to the guardhouse?—A. I did, sir.

Q. Or did you go over to the hospital?—A. I went in a round-about line there, as I say; I maneuvered on the low ground, and when I left the moat I passed, of course, very near toward the line, down toward the guardhouse there, and came up to the guardhouse, and the post-exchange buildings, of course, were affording me protection to get around there.

Q. Was that the time you met this man Mitchell—was it Harding?—A. Harding; yes, sir; of B Company. He approached me from the hospital porch.

Q. From the hospital porch?—A. Yes, sir.

Q. Was that before or after you got to the guardhouse?—A. That was before I got to the guardhouse.

Q. Where were you standing when he approached you and you first saw him?—A. I couldn't really tell the exact place. It was somewhere in that neighborhood; right in here; somewhere down in that direction, right along in there [indicating]. I couldn't say exactly, because I wasn't paying very much attention to where I was standing at the time. My ideas were all on finding the major and finding the battalion and getting some real information as to what the conditions were.

Q. If you were in a hurry to find the major and went to the guardhouse for that purpose, you did not, then, take the most direct course?—A. No, sir; I took the safest course.

Q. You took the safest course?—A. The safest course.

Q. You were having the moat, then, as a protection?—A. Yes, sir; my idea was to—

Q. How far did that moat extend? Does that moat extend up to the hospital?—A. I don't think it goes clean up to the hospital; no, sir; it branches off there and goes somewhere down toward the lagoon, and then it goes around in front of the guardhouse. They join. One goes along in front of the guardhouse and joins the prolongation of the officers' line.

Q. Is the porch of the hospital in front or in rear of the hospital, or does it extend all around?—A. I think it extends all around.

Q. Are you certain of that?—A. I think I am; yes, sir. There are long columns extending, I think, almost clear around the building. I am quite certain of it; certainly on the front side and along the lengthwise; that is, on the end here and down the other way [indicating].

Q. I believe you stated that the bugle had sounded before you left your room?—A. Yes, sir.

Q. And when you got to the guardhouse you found two men lying prone upon the ground?—A. I saw two distinctly, and there might have been more; but it was dark, and I couldn't say that I saw but two privates of the guard. I saw also the sergeant and the corporal of the guard.

Q. You went from the guardhouse, then, to the barracks?—A. Yes, sir.

Q. And was the firing going on all that time?—A. Yes, sir; the firing had gone down into the town. When I got up near Major Penrose, near the barracks, the firing was no longer near the post, but it seemed to be down in the town quite a distance.

Q. Could you tell from the sound of this voice whether the voice came from a soldier, or a Mexican, or a white citizen? Did you form some kind of judgment from the sound?—A. Well, I was quite certain it was not from a Mexican, because it had no taint of foreign accent at all; it was pure English. I couldn't tell, of course. The only reason I say I don't think it was a soldier was because it was not a familiar voice to me.

Q. What is that?—A. The voice was not familiar to me.

Q. You are pretty familiar with the voices of the men?—A. Yes, sir; most of them I am. It struck me, of course, as being a stranger's voice. Of course that is all I can say.

Q. You paid particular attention to the voice?—A. Yes, sir.

Q. Did you not?—A. Yes, sir. Of course I couldn't help but pay particular attention to it, because I was alone in the building there; I didn't have any defense whatever; I didn't have any firearms or any effectual protection at all, and it seemed to me, as I say, as though it was a great danger.

Q. Did I understand you to say that the patrols had their guns when they went out in town?—A. Yes, sir; the patrols I saw going out had their guns.

Senator FOSTER. That is all.

By Senator FRAZIER:

Q. How far was it, Sergeant, according to your best estimate, from your room in the administration building to the western end of B Company's barracks?—A. That is to the first end of B Company's barracks?

Q. Yes; the end nearer to D Company?—A. I would say probably about near in the neighborhood of 175 yards—150 yards—something like that. I couldn't say definitely.

Q. The firing that you heard after the first shot you could not locate definitely?—A. No, sir.

Q. As I believe you stated?—A. Yes, sir.

Q. You thought it was somewhere in the rear of C Company barracks; in that neighborhood?—A. The first shot seemed to be down that far.

Q. And then you thought that the other shots—A. Seemed to be a little nearer.

Q. They seemed to you to be a little nearer?—A. Yes, sir.

Q. Possibly in the rear of B Company?—A. Yes, sir.

Q. Now, the voice that you heard calling out "I want all of you?"—A. Yes, sir.

Q. Was that before or after you heard the first of this cart's noise?—A. I couldn't state, as I have said before, whether it was before I heard the noise of the cart or after the two were so close together—and, in fact, they might have been going on at the same time. They were very close together.

Q. What time did you hear that voice calling out, in relation to this second series of shots after the first single shot that you heard?—A. Well, it was toward the latter part, the last of it. I was nearly dressed and ready to leave the building when I heard the voice.

Q. You were nearly dressed and ready to leave the building when you heard the voice?—A. Yes, sir.

Q. You can not state whether that was before or after you heard the noise of the cart?—A. I could not; no, sir; they were very close together, and I wouldn't say. They might both have been going on at the same time.

Q. Now, from the noise of the firing you located that somewhere, at that time, in the rear of B Company barracks?—A. Up to the last part, the time I left the building.

Q. Immediately preceding the time you left the building?—A. I left the administration building; yes, sir.

Q. Now, in locating the voice, was that in the same apparent location as the shots?—A. It seemed to be.

Q. It seemed to be in that general direction?—A. It seemed to be in that general direction; yes, sir.

Q. If anyone had been at the corner of B Company barracks, near the western end of B Company barracks, close to the gate, that person would have been nearer the voice than you were in the administration building, would he not?—A. Yes, sir.

Q. By some 175 yards?—A. Yes, sir.

Q. And could therefore have heard it more distinctly than you heard it?—A. It seems that they should, under ordinary circumstances.

Q. Now, anyone in B Company barracks, either on the porch or near the doors or the windows of B Company barracks, would have been nearer, much nearer, to that voice than you were?—A. Yes, sir; he would have been nearer than I was.

Q. And that voice would have been easier to hear by those persons in B Company barracks than by you at that distance, would it not?—A. No, sir; I do not think so.

Q. You do not think so?—A. No, sir.

Q. Why not?—A. Because there were 50 or 60 men in each one of those buildings getting their rifles out, rustling their shoes, making a noise, asking "What's the matter?" making all kinds of disturbance.

Q. How do you know that?—A. That is what was going on, I learned. From the call to arms the men were getting ready.

Q. The call to arms had already been sounded when you heard this voice?—A. Yes, sir; and the men were evidently getting out of their barracks.

Q. You merely imagine that?—A. Yes, sir; I was simply stating the circumstances that might have prevented men in the building from hearing it as well as myself. There was no noise around me at all, no intervening lesser sounds to prevent me from hearing this voice, and, in fact, the walls of the building acted as a sounding-board.

Q. Now, the call to arms had already been sounded, as I understand, before you heard this cry?—A. Yes, sir.

Q. Before you heard the man cry out?—A. Yes, sir; the call to arms had been sounded before that.

Q. And you had not then heard any call up between B and C Companies' barracks?—A. Not until after the call to arms.

Q. Did you hear anyone holler up there, make any outcry about the guard, or call the guard?—A. No, sir; I didn't hear anything of that sort.

Q. You did not hear that?—A. No, sir.

Q. You did not hear any gun fired that appeared to be either between B and C Company barracks or out in the parade ground in front of B Company barracks?—A. There was so much firing going on at the time, the noise was so great as to the firing, I couldn't distinguish whether a shot was inside or outside of the wall. I couldn't begin to distinguish.

Q. Then you could not tell, you could not distinguish really, whether these shots you heard between B and C Company barracks were inside of or outside of the reservation?—A. I could not; no, sir.

Q. You could not?—A. No, sir.

Q. They might have been fired from the rear of the barracks, from the porch, or between the barracks and the wall?—A. Yes, sir; they might.

Q. So far as you know?—A. So far as I know.

Q. You couldn't tell about that at all?—A. No, sir.

Q. You only state that according to your best judgment they were in that direction?—A. Yes, sir.

Q. And your best judgment is that the voice was in that general direction?—A. Yes, sir.

Q. And you could not undertake to locate definitely and distinctly where that voice was?—A. No, sir; I could not locate definitely where that voice was.

Q. How soon after this second firing, which followed the first shot that you speak of, did you hear this cart rattling, making so much noise?—A. You mean from the first shot up to the time I heard the noise?

Q. No; how soon after the second series of shots you speak of?—A. It was a very short time; probably not more than hardly two minutes.

Q. Hardly more than two minutes?—A. No, sir; I couldn't state distinctly. It was a very short time.

Q. Did that cart pass in front or in rear of the administration building?—A. I couldn't tell that, either.

Q. Did the noise cease or continue?—A. The noise ceased. I really don't know whether the noise ceased or whether I left the noise.

Q. You don't know whether you ran off and left the noise or whether the noise ceased?—A. No, sir.

Q. But you ceased to hear it?—A. Yes, sir; I ceased to hear it.

Q. Could you tell from the noise of the cart, which you said made so much noise that you thought it was a piece of artillery of some kind, whether it passed in front of the administration building?—A. I could not tell whether it passed in front or in the rear.

Q. You could not tell?—A. No, sir.

Q. Is there a road extending down from B Company barracks toward the Rio Grande River on the inside of the reservation?—A. From B Company barracks?

Q. Just west of B Company barracks.—A. Is there a road coming down toward the Rio Grande River?

Q. Yes; on the inside of the reservation, behind D Company barracks?—A. There is a road coming down toward the Rio Grande River in rear of B and D. It is not a public road.

Q. You could not tell from the noise of the cart whether the cart went down that road or whether it went down the road in front of the administration building?—A. I could not, because I left about the same time.

Q. You left about the same time you heard this noise?—A. Yes, sir.

Q. Was that noise loud? Did it make a great deal of rattling?—A. Yes, sir; I say it sounded like the rumbling of some kind of a wheeled concern, and I didn't know what it was at the time.

Q. And you are satisfied that the cart was moving at a rapid gait?—A. Yes, sir; it was moving at a rapid gait.

Q. The horse or mule that was pulling it was not walking?—A. No, sir; he wasn't walking.

Q. He was running?—A. Yes, sir.

Q. You are sure of that?—A. Yes, sir; he was moving very rapidly.

Q. About what is the distance from the administration building to the rear, first, of the officers' quarters? I believe it is marked on that map "O," if I can see it correctly from here.—A. I would put that at about 50 yards.

Senator SCOTT. That map is drawn on a scale of 30 feet to the inch. Perhaps that will help you. The Senator is asking these questions about distances, and you can easily find what the distance is with a rule.

By Senator FRAZIER:

Q. What is your best judgment?—A. My best judgment would make it probably 50 yards. It might be less or more.

Q. As I understand you, in leaving the administration building you came out at the door leading toward the officers' quarters?—A. Yes, sir.

Q. And went in rear of the officers' quarters?—A. Yes, sir.

Q. To Major Penrose's quarters?—A. Yes, sir.

Q. Now, you went around his house?—A. Yes, sir.

Q. On the side next to the hospital?—A. Yes, sir.

Q. And came to the front door?—A. Yes, sir.

Q. Had you seen anyone at all up to that time?—A. No, sir.

Q. You had not?—A. No, sir.

Q. What did you do when you got to the front door?—A. I knocked on the door and called the major.

Q. Was there a porch in front of the building?—A. Yes, sir.

Q. You went up to the door?—A. Yes, sir.

Q. Was there any bell, or anything of that sort?—A. I believe there was a bell.

Q. Did you ring the bell?—A. Yes, sir; I believe I rang the bell. I called the major, and knocked and rang, too.

Q. Did you stay there long enough to see whether there was any response to that knock and ring?—A. I didn't remain very long, only a few seconds, but long enough, what I considered to be sufficient, to satisfy myself that he wasn't in there.

Q. Was the door closed?—A. I don't know whether the door was closed or open.

Q. Was there a light in the house?—A. Yes, sir.

Q. There was a light in the house?—A. Yes, sir.

Q. You did not go in?—A. No, sir.

Q. Did you holler out?—A. Yes, sir; I called aloud for him.

Q. There was no response?—A. No, sir.

Q. As far as you heard?—A. No, sir.

Q. Then you did not go, as I understand you, from that porch directly to the guardhouse?—A. No, sir.

Q. But you went back by the side of the house toward the rear and got in the moat?—A. Yes, sir; not down in the moat, but I threw the high ground of the moat between me and the firing that I heard.

Q. You got on the low ground?—A. Yes, sir; on the low ground.

Q. And continued from there up to the hospital?—A. Yes, sir; in that direction.

Q. About how far is that from Major Penrose's house?—A. I don't know. I couldn't give an exact estimate there. It might be probably something like 150 yards, or it might be more.

Q. Now, you said—I believe I so understood you, and if I did not understand you correctly you can correct me—that you did not know when you got to Major Penrose's house and found he was not there but what he had his command out?—A. Yes, sir.

Q. And had them formed?—A. Yes, sir.

Q. When you found that he was not at his house and you supposed that he might have his command out, where did you suppose he would likely have his command?—A. I thought probably he would have his command somewhere back there, probably on the parade ground or probably down there in the open space between the barracks and the guardhouse. I couldn't tell where.

Q. The most likely place would have been in front of the barracks on the parade ground, would it not?—A. Not if he were deploying for action.

Q. Not if he was deployed for action?—A. Yes, sir.

Q. Where did you think that he would have deployed for action?—A. Some place where he could protect his men and get a good line of fire.

Q. You did not expect to find him on the parade ground?—A. No, sir; I didn't expect to find him on the parade ground, nor anywhere in front of the barracks, not if he had deployed for action. I thought he would have deployed them, most likely, somewhere in rear of that moat.

Q. You thought he would have followed your example and gotten shelter?—A. Yes, sir; if there was danger that he would have deployed them in a safe position.

Q. When you left the hospital after speaking to Private Harding, who was standing on the porch of the hospital—A. He approached me from the porch.

Q. Did he get off of the porch?—A. Yes, sir; as I saw him he approached me and I approached him.

Q. How far from the hospital did he come?—A. I said a minute ago that I couldn't tell exactly the position he was standing or I was standing. At this time my mind wasn't really on anything but looking for the major and looking out for where the men were.

Q. And you were looking back in there to find the major and the men?—A. Looking anywhere I could. My mind was lost then as to where to find them.

Q. In going from the hospital to the guardhouse, did you go in rear of the exchange?—A. I didn't go behind the exchange, but I came in front of the exchange.

Q. You came in front of the exchange to the guardhouse?—A. I think I came in front of the exchange.

Q. You are not sure of that?—A. Yes, sir; I am quite sure I came in front of the exchange.

Q. And when you got to the exchange you found Sergeant Reid there?—A. No, sir; at the guardhouse.

Q. I mean at the guardhouse.—A. Yes, sir.

Q. And these two men you saw lying on the ground?—A. Yes, sir.

Q. Now, did you stop and speak to Sergeant Reid there?—A. Yes, sir; I spoke to Corporal Wheeler and Sergeant Reid both.

Q. Did either of them go with you from there toward C Company barracks?—A. Sergeant Reid did.

Q. Did he go all the way with you?—A. Until I met Lieutenant Grier.

Q. You met Lieutenant Grier?—A. Yes, sir.

Q. And when you got to C Company barracks and in front of it on the parade ground, I believe I understood you to say that they were forming then?—A. Yes, sir.

Q. Do you remember whether the roll was being called?—A. No, sir; there wasn't any roll being called at C Company.

Q. Not any roll?—A. Not at that time.

Q. Did you find Major Penrose there, or did you go farther?—A. I found Major Penrose opposite the interval between B and C Company barracks.

Q. Between B and C Company barracks?—A. Yes, sir.

Q. What was the condition of B Company when you got there between B and C Company barracks, as to the formation?—A. I didn't go up in front of B Company, really. They seemed to be forming. It seemed somebody was calling the roll of B Company.

Q. They seemed to be forming?—A. Yes, sir; like the other companies.

Q. Now, you spoke of there being a disturbance in the town that night. Did you learn of any particular disturbance except from this man, the mail carrier, Mitchell?—A. And the report that Sergeant Wheeler, of C Company, made to me while at the supper table.

Q. What was that report?—A. He said that all passes had been countermanded, and the men were ordered to be in the barracks by 8 o'clock, and no man would be allowed to go out thereafter. I said to him, "What is the matter?" He said, "It is reported that some soldier has frightened a white lady on a horse downtown, and there is likely to be trouble." I said, "Where did you get your authority for that?" He says, "Captain Macklin, the officer of the day, was just here a few moments ago and told me this." I said, "I haven't heard anything of that," and he says, "Well, it is so."

Q. That is all you heard with reference to any disturbance in town?—A. From Sergeant Wheeler and Private Mitchell.

Q. And Private Mitchell?—A. Yes, sir; he said that the officer of the day delivered the information to him, and he was the commander of C Company and also officer of the day.

Q. You were not down in town after that time?—A. Not after 8 o'clock. I wasn't out in town after dark.

Q. Where was it that you met Corporal Madison?—A. It was on this road here, between the town and the fort; I think, right here [indicating on map].

Q. What time was it?—A. That was before dark.

Q. Before dark?—A. Yes, sir; it was some time after supper, early, before dark. I met him there and delivered the commanding officer's orders to him and told him I understood it was the orders of the commanding officer that he should be in barracks before 8 o'clock.

Q. Did he return, or continue on his way?—A. I couldn't say whether he returned or not. I delivered the message to him.

Q. Which way was he going when you met him?—A. He was standing still when I spoke to him.

Q. Did you leave him standing still?—A. Yes, sir; I left him there and came on back to quarters.

Q. You spoke of being refused to be served at the bars in that city. Did you hear that discussed among the men?—A. Well, I didn't hear any general discussion on the subject, only the same remark that I have mentioned. Several of them, of course, reported the same thing.

Q. Did or did not the men like that, or did they resent it?—A. They simply said they would go where they would be served. That is what I did. That is what most of the others did.

Q. Did you hear any expression to the effect that they were pleased with that treatment or displeased with it?—A. I heard no expressions other than that they said they would not patronize them; they would go where they would be served.

Q. Was there any discussion about the starting of a bar by anyone connected with the soldiers?—A. I didn't hear anything about that, and I didn't know anything about the bar being established until after it was established.

Q. You did not hear of the bar until after it was established?—A. No, sir; I did not hear of the bar until after it was established.

Q. You did not hear it discussed at all among the soldiers?—A. No, sir.

Q. Did you hear the soldiers discussing it after it was established?—A. I heard them say that this saloon had been opened, of course, and that they would patronize it.

Q. Were you in that saloon after it was established?—A. I was, at one time.

Q. Just one time?—A. I don't know; it might have been oftener. I don't remember now distinctly but once.

Q. How long was it before this shooting that you were there?—A. I don't know, sir; probably two or three days.

Q. Were there a large number of soldiers there at the time?—A. No, sir; not very many there.

Q. Was it day or night?—A. In the day.

Q. Did you make any statement before Major Blocksom?—A. Yes, sir.

Q. Did you tell him anything about having heard this voice of which you speak, saying "I want all of you," or "I want you all?"—

A. I did not. I told Major Blocksom that I heard the yelling and I heard guns that were not army rifles, according to my knowledge of the reports of the guns; but I did not tell him the words that I heard in the yelling, because he didn't inquire of me that, at all. Major Blocksom, he seemed to be very confident that the shooting had been done by soldiers, and his inquiry was simply along the line to find out what soldiers had done the shooting, and he directed his inquiry along that line.

Q. You say he seemed to be confident that the firing had been done by the soldiers?—A. Yes, sir; he directed his inquiry along that line.

Q. Did he say that he was simply trying to find out which ones of the soldiers did it, or that he was not trying to find out whether it was done by the soldiers or some one else?—A. I don't remember the exact words that he used, now; but he asked me if I didn't think the men went down there and shot up the town on account of the treatment that Newton had received at the hands of this man Tate, and he made inquiry mostly along that line.

Q. You did not tell him anything about having heard this man crying out, "I want you all?"—A. No, sir; but I told him "I heard yelling, Major, and I heard guns that were not army guns;" and I remember telling him then I didn't know that anybody thought that any soldiers had done any shooting until I was informed of the fact.

Q. You did hear that that night, after the shooting?—A. Did hear—

Q. That the soldiers were accused of having done the shooting?—A. No, sir; I wasn't informed of that that night.

Q. When did you first hear that?—A. I first heard that. I think it was about two days afterwards.

Q. About two days afterwards you first heard that?—A. Yes, sir.

Q. You did not hear it the next morning?—A. No. Well, the morning paper following the shooting, I remember reading that, and then a few days afterwards I had a conversation with the major, the commanding officer, on the subject.

Q. Did you see the paper of the following morning, the 14th?—

A. As I say, I think I did notice the report in the paper the following morning.

Q. Did that report charge, or state, that it was believed that the soldiers had done the shooting?—A. Yes, sir.

Q. So that you did know about it the next morning?—A. I saw the report in the paper, but I didn't regard it as authentic from that.

Q. Then later—A. The first time I got any information from anybody that had any real information on the subject was when I got it from the commanding officer. I told Major Blocksom at the time I was testifying before him that I didn't have any idea about the soldiers doing the shooting until I got this information.

Q. You did not have any idea about the soldiers doing the shooting until you got this information from Major Penrose?—A. Yes, sir.

Q. Then Major Penrose told you about these—A. In reference to the shells being found.

Q. Belonging to the army rifle, of the regulation army kind? He told you of those shells being found in the city?—A. Yes, sir.

Q. And you did not tell Colonel Lovering about this voice that you heard calling out there?—A. I couldn't tell Colonel Lovering anything but what he asked me. That is what he instructed me to do. He said: "Just confine yourself to what I ask you."

By Senator WARNER:

Q. Did Major Blocksom limit you at all in your statement?—A. Major Blocksom did not limit me at all in my statement.

Q. But he wanted you to tell all you knew about the shooting, did he not?—A. I don't remember Major Blocksom telling me that he wanted me to tell all I knew about the shooting. He simply asked me questions, if I didn't think that some men went down there and shot up the town on account of the treatment of Newton and Reid, and then I says: "Major, I heard yelling out in the street, and I heard the shooting, and I heard guns that were not army guns." And I was not of the impression that any of the soldiers had done the shooting until I was informed through the commanding officer that that was the supposition.

Q. But what I want is this: Major Blocksom did not attempt to limit you?—A. No, sir; he did not attempt to limit me at all in the investigation.

Q. And you did not say to Major Blocksom that you heard this voice calling out three times: "I want you all?"—A. No, sir; I didn't tell him that.

Q. You simply told him you heard yelling?—A. That I heard yelling, and heard guns that sounded to be not army guns.

Q. But you did not tell him the words that you heard?—A. No, sir; because, as I stated, it seemed to me that they got the proper information; I thought they were right. I didn't know but what they were.

Q. You say you got your belt when you got up?—A. Yes, sir.

Q. What did you have in that belt?—A. Nothing; just a plain leather belt.

Q. Just a plain leather belt?—A. Yes, sir.

Q. No cartridges? You simply got that as a part of dressing?—A. Yes, sir.

Q. Just one other thing I want to understand. Post No. 1 was the one around the barracks?—A. Post No. 1 was in front of the guardhouse.

Q. Yes; No. 1 was in front of the guardhouse, and Post No. 2 was, I believe, in front of the barracks?—A. No. 2 was in front of the barracks.

Q. The sentry on duty there has all the barracks, has he?—A. I don't know the limits of that post exactly myself, and I couldn't state exactly what the beat is.

Q. Would you not know, as sergeant-major there, about that?—A. No, sir.

Q. Would you think the barracks were left out of the beat, unguarded?—A. I would not think it would be.

Q. You would not think so?—A. No, sir.

Q. It was all covered in the beat?—A. Yes, sir; the occupied barracks.

Q. The occupied barracks. There was one barracks unoccupied, No. 36, as we have been calling it?—A. Yes, sir. You see, the orders to sentries on post are sometimes typewritten and sometimes not. They are given to the sentries sometimes by the officer of the day, and of course he communicates them to the sergeant of the guard, and the sergeant of the guard gives them to the corporals to post their reliefs.

Q. Yes; I understand.—A. And I couldn't tell what the special orders were.

Q. Speaking of the officer of the day, did you try to find the officer of the day that night?—A. Yes, sir.

Q. Where did you go?—A. I went to the quarters he occupied. I had reason to believe that he lived there.

Q. You knew, as sergeant-major, the different quarters that were occupied by the officers?—A. Not at that time I didn't. We had only been there a very short while.

Q. Who directed you to go and find him?—A. The commanding officer.

Q. How long was that after the shooting stopped?—A. It was only a few minutes, probably five—it might have been ten or fifteen minutes, I guess.

Q. You had your gun with you then?—A. I don't think it was as much as ten or fifteen minutes, because as soon as I reported to the commanding officer—it was a very short time—he sent me right over to look for the officer of the day.

Q. Did you find Captain Macklin?—A. No, sir; I did not.

Q. It was an hour or more before you saw him, was it not?—A. Yes, sir.

Q. Fully that?—A. Yes, sir.

Q. Now, when you met Private Harding up there he came out to meet you?—A. Yes, sir; he approached me as I approached him.

Q. And he asked what was the matter?—A. I don't remember his asking me what was the matter, but I remember his saying that he wanted to go down there and I remember telling him, "No; you stay here."

Q. Yes. Did you hear any other unusual noises then but the shooting?—A. Nothing but the shooting when I was down there.

Q. When you were talking to him?—A. No, sir.

Q. Did you hear any horses running anywhere?—A. No, sir; I didn't hear any horses.

Q. You were pretty keenly alive to the sounds you heard?—A. Yes, sir.

Q. In view of the Gatling gun, and so forth?—A. Yes, sir.

Q. And you heard no horses?—A. No, sir; nothing but the shooting and the yelling that I have spoken of.

(Witness excused.)

TESTIMONY OF SECOND LIEUT. GEORGE C. LAWRASON, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Please state your name in full.—A. George Carson Lawrason.

Q. Are you in the military service of the United States?—A. Yes, sir; second lieutenant in the Twenty-fifth Infantry.

Q. Were you connected with that regiment while it was at Brownsville, or with the battalion that was at Brownsville, in 1906—last year?—A. Yes, sir; I was commanding Company B of that regiment.

Q. You were in command of Company B?—A. Yes, sir.

Q. While you were there?—A. Yes, sir.

Q. How long had you been in command of Company B?—A. I relieved Captain Shattuck about the 1st of July, 1906, in command of this company.

Q. Where was the company stationed at that time?—A. It was stationed at Fort Niobrara, Nebr., at the time I took command of it.

Q. How long had you been with the company prior to that time?—A. Since the 15th of September, 1904, when I joined from the Military Academy.

Q. Were you of the class at West Point of 1904?—A. Yes, sir.

Q. What State are you from, Lieutenant?—A. I am from the State of Louisiana.

Q. Did you go with your company from Niobrara to Fort Brown?—A. Yes, sir.

Q. Were you with your company on the night of the 13th of August, when this shooting affray occurred at Brownsville?—A. Yes, sir.

Q. Where were you when the shooting commenced?—A. When the shooting commenced I was asleep in my bed in my quarters.

(The map was explained to the witness by Senator Scott.)

Senator SCOTT. That map is 30 feet to the inch, if you are asked in regard to distances.

By Senator FORAKER:

Q. First I will ask you, Mr. Lawrason, if that map seems to you to be accurate in indicating the different roads that are inside the reservation wall?—A. In order that I may call attention to what I have in mind, I will ask you whether or not there is a roadway, if you know, between that wall fronting out toward the town and the rear of the barracks, running down from the east to the gate?—A. Yes; there is a road extending along the rear of the barracks, between the barracks and the wall.

Q. And does that road extend up and circle around in rear of the guardhouse or not? There is nothing marked there to indicate that there is any road in rear of the guardhouse. Do you remember about that?—A. Yes, sir; it went east almost as far as the noncommissioned officers' quarters, that were in the northeastern corner in the post, when it turned about southeast.

Q. Turned to the right?—A. Yes; and continued down, as shown there, toward the corral and stables.

Q. Back toward the corral?—A. Yes, sir.

Q. Now, which of the quarters there were you occupying that night; of the officers' quarters, if you can inform us?—A. I was in No. 9.

Q. I wish you would indicate on the map which that is.—A. It was this set; the half of this building here [indicating].

Q. The second from the Rio Grande River?—A. Yes, sir.

Q. Now, while you are there, tell us how the other quarters, as indicated there were occupied; by whom?—A. Capt. Edgar A. Macklin, Twenty-fifth Infantry, lived in No. 12. Lieutenant Hay

lived in No. 10, but he was away at the time. Lieutenant Chandler and Lieutenant Higgins lived here [indicating on map].

Q. They occupied the next one?—A. Yes, sir.

Q. And then you occupied which one?—A. No. 9.

Q. Who occupied that with you—anyone?—A. No one occupied that half with me. Lieutenant Hay occupied No. 10.

Q. He was away at the time?—A. Yes, sir; he was away at the time.

Q. Where was he at the time?—A. He was at the rifle competition at Fort Sill, Okla.

Q. How long had he been gone?—A. I believe he had been gone about a week. I don't remember the exact dates.

Q. The firing is stated to have occurred on the night of the 13th. Was anyone occupying your quarters with you that night?—A. No, sir.

Q. You were in your quarters when the firing commenced? Were you asleep or awake?—A. I was asleep.

Q. About what time, if you can tell us, did you retire that evening?—A. About a quarter of 11, I believe, sir.

Q. Now, tell us what awakened you, and, as nearly as you can recollect, tell us what occurred after you got awake.—A. I was awakened by the sound of firing, and jumped out of bed and dressed hurriedly; put on my trousers and blouse and a pair of shoes without lacing them.

Q. Without lacing them?—A. Without lacing the shoes. And got my hat and pistol and started for the company, across the parade ground.

Q. Were you upstairs or downstairs in your quarters sleeping?—A. I was upstairs, and sleeping in the rear room.

Q. In the rear room?—A. Yes, sir; of the main part. I can show on the map where that was.

Q. Yes; do so.—A. In each of these sets of quarters there was a front room upstairs there, and a rear room upstairs, on the same floor.

Q. And you were in the rear room?—A. Yes, sir.

Q. Now, as nearly as you can describe it, tell us where that firing which you heard, by which you were awakened, was located, and what the character of the firing was. I mean whether single shots or otherwise.—A. The firing that woke me—that I heard when I woke up—was not single shots. They sounded like scattered volleys fired by a small number of men; and as I recollect it, this continued as I dressed and crossed the parade ground.

Q. Did you see anything of any of your brother officers before you left the parade ground, before you left your quarters, or while you were leaving your quarters?—A. No, sir.

Q. Did you hear any of them?—A. No, sir.

Q. You went across the parade ground to what place?—A. To the company parade of Company B; in other words, the place where the company formed.

Q. Where did they form? What did you find when you arrived at the barracks?—A. I found the company in great confusion. The men, in obedience to the call to arms, were——

Q. Now, about the call to arms. Right there, state whether or not

you heard the call to arms—when did you hear the call to arms sound?—A. I heard it sound as I was coming out of my quarters.

Q. You say “coming out;” were you downstairs yet?—A. Yes, sir; as I recollect it, I had just reached the ground.

Q. Where was that call to arms sounded from?—A. It was sounded from the direction of the guardhouse. I don’t know whether that was the first call to arms that had been sounded or not.

Q. You heard a call to arms sounded from the direction of the guardhouse just as you were leaving your quarters. Did you hear the call to arms sounded from any other place that night or by any other trumpeters?—A. I heard it repeated by the trumpeter of B Company, I know, as I crossed the parade ground.

Q. The trumpeter of B Company, you say?—A. Yes, sir.

Q. Do you remember hearing it repeated by any other trumpeters than the trumpeter of B Company?—A. I don’t at present recollect. I probably did. I do not remember, sir.

Q. Yes. I wish you would state now whether you went rapidly or leisurely across the parade-ground to your company barracks.—A. I ran across the parade ground about as fast as I could.

Q. Now resume your story. You stated that you found the men in confusion. Describe as nearly as you can what the confusion was—what the men were doing and saying or how they were acting.—A. On my way over, I meant to state that I ran into a man who had been sent from the company to awaken me.

Q. Who was that?—A. Private George Conn, of Company B, and he stated to me that he had been sent to wake me up, and the call to arms had sounded and the company was being formed. Upon reaching the company I found it in great confusion, the men partly dressed, some of them without rifles and some of them with rifles.

Q. Before we get away from George Conn, about where did you meet him?—A. Just as I had crossed the road in front of my quarters and gotten on the parade ground proper.

Q. About how far from your quarters?—A. About 100 feet, I believe, sir.

Q. Now, do you know who had sent George Conn to awaken you? Did you learn in any way?—A. I learned later that Major Penrose had.

Q. Major Penrose? Where did you first see Major Penrose that night after the firing commenced—after you got awake?—A. I found him in the vicinity of my company when I joined it, out in front of the company barracks.

Q. What was he doing there?—A. He was endeavoring, I believe, to have the companies formed as quickly as possible and placed along the wall as a guard.

Q. Did he give you any instructions when you met him—any orders of any kind?—A. He told me to form my company as soon as possible and post it along the wall.

Q. Now, what did you do in pursuance of that order?—A. In pursuance of that order I took charge of my company and superintended the calling of the roll.

Q. By whom was the roll called?—A. The roll was called by the first sergeant.

Q. Please give his name.—A. Mingo Sanders, first sergeant of Company B.

Q. State whether or not that was a careful call of the roll or not.—
A. Yes, sir; it was a careful call.

Q. State whether or not he had any light that he used in calling the roll, whether he called it from a list of names or called it from memory, or how?—A. He had a list and he had a light. He carried his light on his left arm, and as he called the names of the men he checked them off with a pencil.

Q. Now, state how men fall into line for a roll call when they have their arms. In what position do they carry their arms when they fall into line for roll call and what do they do, if anything, with their arms when their names are called?—A. They fall in at what is called the right shoulder. When a man takes his place in ranks he brings his gun to the right shoulder arms and remains in that position until the first sergeant calls his name.

Q. Did you listen to the roll as it was called that night?—A. Yes, sir; I listened carefully.

Q. State whether or not your men were all present or accounted for. What was the result of it?—A. They were all present or accounted for.

Q. Are you or not familiar with the voices of your men?—A. Before I answer that question, sir, I would like to change my last answer a little bit.

Q. Certainly.—A. I stated that the men were all present or accounted for. They were accounted for after I had had checked up three absentees I had reported to me at the end of the roll call.

Q. State now who the absentees were you refer to.—A. They were Private John Brown—

Q. Where was he?—A. He was sleeping in the baker's shop. He had been detailed as assistant to the post baker.

Q. Now, as to the others?—A. Private Elmer Brown.

Q. Where was he?—A. He slept in the corral and had charge of the commanding officer's and adjutant's horses.

Q. Who was the other, the third?—A. The third was Private William Smith, of Company B.

Q. Where was he?—A. He was drunk on his bunk in quarters.

Q. Now, were your men, with the exception of those three absentees, all present or accounted for?—A. Yes, sir; they were.

Q. When you say all were present or accounted for, do you have in mind the guard and others who were on special duty that night?—A. At such a formation all should be present except the guard and sick.

Q. The guard and sick?—A. Yes, sir.

Q. Can you tell how many men you had in line that night when your roll was called and your men all answered or were accounted for? Do you now remember the number?—A. About 43, I believe, sir; in the neighborhood of 43.

Q. Do you remember how many men you had on guard?—A. I had 7 men on guard, if I remember correctly.

Q. Do you remember how many men you had in the hospital?—A. Two in the hospital, sir.

Q. And, then, these other 3 men were absent in the way you have indicated?—A. Were reported absent to me by the first sergeant, and I had their presence verified, and they were ordered to report to the company.

Q. That made 12 men absent from the ranks that night?—A. Yes, sir.

Q. Seven on guard?—A. Yes, sir.

Q. And 2 in the hospital would make 9, and these 3?—A. Yes, sir.

Q. That were absent in this way?—A. Yes, sir.

Senator SCOTT. Lieutenant, when the roll was being called by the first sergeant was there still some firing going on?

The WITNESS. I do not recollect whether any firing went on while the roll was being called. My attention was entirely taken up by the company, and I can not recollect hearing any shots after I had reached the company.

By Senator FORAKER:

Q. There might have been firing at that time, as far as you recollect, as I understand it?—A. Yes, sir.

Q. You would not undertake to say that there was not firing at that time?—A. No, sir; I would not.

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Hemenway, Bulkeley, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF SECOND LIEUT. GEORGE C. LAWRASON, U. S. ARMY—Continued.

Second Lieut. GEORGE C. LAWRASON, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. I understood you to say that the call to arms sounded just as you were leaving your quarters—about that time?—A. I am not sure that that was the first time that the call to arms was sounded.

Q. It might have sounded before that, you think?—A. It might have sounded while I was in my quarters, and I might not have heard it.

Q. At any rate, that was the first call to arms that you heard?—A. Yes, sir.

Q. Just as you were leaving your quarters?—A. Yes, sir.

Q. How long were you after you were awakened by the firing in getting dressed and leaving your quarters and getting down outside, as nearly as you can estimate it?—A. I don't think it took me over three or four minutes.

Q. How far is it across the parade ground from your quarters to B Company's barracks?—A. I believe it is about 175 yards, sir.

Q. And did you go in a run, or did you walk on your way over?—A. I went in a run.

Q. How long would it take you to run across there, perhaps?—A. I believe I could cross in about a half a minute, sir.

Q. So that you did hear the call to arms sound after you got dressed and got down from upstairs in your barracks where you

were sleeping, and you heard it about the time you were leaving?—A. Yes, sir.

Q. If that was the first call to arms, then you were down and prepared to cross the parade ground to your company immediately after it sounded—if that was the first call?—A. Yes, sir.

Q. Have you any means of knowing whether that was the first call to arms or not?—A. I believe that it was among the first.

Q. If the call to arms had sounded while you were dressing you would have heard it, would you not?—A. Not necessarily, sir. I was in the back part of my quarters and dressed very hurriedly, and believe that it could have escaped my hearing.

Q. But so far as you have any reason to know, that was the first call to arms?—A. Yes, sir.

Q. Do you know how that call to arms came to be sounded—by whose orders?—A. By Major Penrose's order. I have heard him say that he gave the order for the first call to arms.

Q. And he gave that order after he left his quarters, as he was starting across the parade ground, did he not?—A. Yes, sir.

By Senator FRAZIER:

Q. Did you hear Major Penrose give the order, or did he tell you afterwards?—A. He told me afterwards. This was hearsay.

By Senator FORAKER:

Q. How long did you say it perhaps took you to run across the 175 yards?—A. I said half a minute. It took me less than a minute, I am sure, to go across. I went as fast as I could.

Q. So that if that was the first call to arms, you were over in front of your company's barracks, ready to take command of your men in a minute after it was sounded?—A. Within a minute after the first call I heard; yes, sir.

Q. When was it you heard another call to arms sounded by the trumpeter of B Company?—A. The call to arms sounded all the time I was crossing the parade ground. It is quite a long call, and I believe that several trumpeters took up this call at that time.

Q. And repeated it?—A. Yes, sir.

Q. You spoke, however, particularly of the trumpeter of B Company repeating the call. What I wanted to bring out was whether that was repeated after you got to the barracks, or as you were still crossing the parade ground.—A. I think he was repeating it all the time that I was crossing the parade ground.

Q. So that from the time the first call to arms was sounded that you heard until you got over to the barracks was not more than a minute at the outside, as I understand?—A. I believe it was not, sir.

Q. Now, you stated that you found your men in a good deal of confusion. What did they seem to think or understand was occurring, if you have any means of knowing?—A. The impression that I got from their actions and state of excitement was that the barracks had been fired upon.

Q. Well, now, pass from that. You found your company and the roll was called, and you satisfied yourself, as I understood you to say, that your men were all in line except the three absentees whom you have mentioned—I mean all who should be there?—A. Yes, sir.

Q. And can you tell us now how many men you had in your company at that time, absentees and those present?—A. I believe about 57. I am not positive of the exact number.

Q. Can you tell where they all were—I understood you to say about 43 were in line, you thought, and that 3 absentees were to be added, of whom you gave us the locations respectively, which would make 46; and then 7 on guard would make 53, and 2 in hospital would make 55. Where were the other two?—A. Two were at Fort Bayard, N. Mex., in the general hospital there.

Q. That would make 57—who were they?—A. They were Private Lewis C. Owens of Company B and Private Ruby Wilson of Company B.

Q. Were there any other enlisted men belonging to your company at that time?—A. Yes, sir; Sergt. William Blaney.

Q. Where was he?—A. He was away on furlough, and Private Charles W. Johnson was also away on furlough, and Artificer Thomas H. Jones was away at the rifle competition which was being held at Fort Sill, Okla.

Q. That would make 60 men?—A. Yes, sir.

Q. Was that your full strength?—A. I believe that was all we carried on the rolls at that time, sir.

Q. And Artificer Jones was away at the target practice and Blaney was away on furlough; and C. W. Johnson was away where?—A. At Washington, D. C.

Q. At the city of Washington?—A. Yes, sir.

Q. What was he doing here?—A. He was on furlough. He had three months' leave of absence.

Q. Then you had two men sick at Fort Bayard?—A. Yes, sir.

Q. That is in New Mexico?—A. Yes, sir.

Q. What is that, a hospital for pulmonary troubles?—A. Yes, sir; a hospital for consumptives.

Q. When had they been sent there—after or before you went to Fort Brown, I mean?—A. Both before we had gone to Fort Brown.

Q. Neither one of them went with you to Fort Brown?—A. Neither one.

Q. Did Sergeant Blaney go with you to Fort Brown?—A. No, sir; he left on the termination of target practice, about the end of June, from Fort Niobrara.

Q. Did C. W. Johnson go with you to Fort Brown?—A. No, sir; he left while we were at Fort Niobrara.

Q. Did Thomas H. Jones go with you to Fort Brown?—A. Yes, sir; Thomas H. Jones did.

Q. And he left you for this target practice at Fort Sill after you got to Fort Brown?—A. Yes, sir.

Q. Can you tell what day?—A. No; I can not. It was, I believe, five or six days before the trouble.

Q. It was before the firing?—A. Yes, sir.

Senator FOSTER. Were these men discharged without honor?

Senator FORAKER. No; Blaney was not discharged, and C. W. Jones was not discharged without honor, was he?

A. No, sir; none that were absent at the time of the firing took place in Fort Brown were discharged.

Q. So that after deducting for all these absentees of one kind and another, there should have been 43 men, as I figure it, in line?—A. About 43 men, sir; I am not positive of the exact number.

Q. You knew that night exactly how many men ought to be in line, did you?—A. Yes, sir; I knew that night.

Q. You knew that to a certainty and to a man?—A. Yes, sir.

Q. And you are able to tell us, as I understand, that you took pains to find out, and every man was in line?—A. Yes, sir; I did.

Q. Now, after the line was formed and the roll was called, which I understand you to say was a careful call of the roll, the company was marched under the orders of Major Penrose around in the rear of the barracks and posted behind the brick wall fronting the town?—A. Yes, sir; it was.

Q. I will not go over that in detail. We have been over it a great deal. You remained there perhaps how long?—A. Approximately two hours or two hours and a half I think, sir.

Q. In what way were you posted behind the wall—I mean as skirmishers, or were you in solid formation, touching elbows?—A. I believe there was an interval of about 2 yards between the men along the wall.

Q. One man every 6 feet that would be?—A. Yes, sir.

Q. Where was the left of your company resting that night?—A. At first the left rested at the gate where the red cross is, there on the map—that is, near the wall.

Q. That is the large gate opening out onto Elizabeth street?—A. Yes, sir.

Q. Then where was the right of your company—I mean the right as you fronted toward the town?—A. The right extended up to and in rear of the left of C Company's barracks as you faced the town.

Q. If you had 43 men in line and there was a space of 6 feet between men, you would cover a frontage of something like 250 feet, then?—A. Yes, sir; about that.

Q. So that your men would extend from the gate, if that is where your left rested, up to a point somewhere near in rear of the east end of C barracks?—A. I should say the center of C barracks instead of the east end.

Q. State whether or not you were up and down along your line at different times during the time your company was so posted.—A. Yes, sir; almost constantly.

Q. Pacing back and forth?—A. Yes, sir.

Q. State whether or not, while your company was thus posted in the rear of that wall, it would have been possible for men to have cleaned their guns if they had been fired, so that they could pass inspection the following morning.—A. I do not believe so.

Q. State whether or not there were any facilities such as are needed for the cleaning of guns under the control of the men while they were out there, so far as you were aware.—A. None other than the cleaning equipment in the butt of the rifle, which I do not believe is adequate for the complete cleaning of their pieces.

Q. That equipment to which you refer, as found in the butt of the rifle, consists of what you call the thong brush, does it not?—A. Yes, sir.

Q. And you think that would not be adequate to the work of cleaning a gun so it would pass inspection after it had been fired?—A. I do not believe so, sir.

Q. What is necessary to the satisfactory cleaning of a gun so that it would pass inspection, and such an inspection as I am going to ask you about in a few minutes, such as I understand you made the following morning?—A. I should think they would need a rag, a bar-rack cleaning rod, and oil.

Q. State whether or not in your company there was any kind of cleaning rod except only that furnished by the Government, such as is hanging right in the rear of you, known as the brass cleaning rod.—A. I believe that was the only kind of rod in the company.

Q. Do you know whether or not orders had been given by Captain Shattuck when these guns were furnished to your company that no kind of a cleaning rod should be used except only those; have you knowledge of his issuing such an order?—A. No, sir; I have no knowledge of his issuing such an order. He may have done so without my knowledge.

Q. Did you ever see any other kind of cleaning rod in your company after you got your new guns?—A. No, sir; I did not.

Q. And you have no reason to believe there was any other kind of rod in your company, have you?—A. No, sir; none that I know of.

Q. Now I will ask you if something more is not needed to clean a gun, after it has been fired, than simply a rod and rag? Do you not need to have some water, or sal soda, or something of that kind in order to moisten the rags, to make them do their work perfectly?—A. To thoroughly remove all traces of powder the sal soda solution is required, though this is not always used by the men in preparing for inspection.

Q. You are familiar with the instructions for the use of the Springfield, new model of 1903, rifle issued by the War Department, are you not?—A. I believe I have read most of them over, sir.

Q. I call your attention to what is said—it has already been put in evidence—on the subject of cleaning these rifles, at page 38 of this book. I have before me the instructions. The book is entitled "Description and Rules for the Management of the United States Magazine Rifle, Model of 1903, Caliber .30, dated March 3, 1904; revised April 8, 1906." I read as follows:

CLEANING AND CARE OF THE ARM.

As the residuum of smokeless powder, if not completely removed, corrodes the bore in a short time, care is required in cleaning the arm after firing.

To clean the barrel: If provided with a cleaning rod, insert in the chamber a cartridge shell, the front end of which has been filled with a wooden plug, and close the bolt; clean the bore with rags saturated with soda water, or, if that is not obtainable, with clear water; wipe thoroughly dry with clean rags; remove the bolt and cartridge shell; clean and dry the chamber from the rear in the same manner; finally, oil both chamber and bore with cosmoline, leaving a light coating. If, however, a cleaning rod is not at hand, the barrel should be cleaned as thoroughly as possible by means of the thong brush and rags, and oiled as above. To clean or oil the bore with rags, the thong brush is unscrewed, the rag placed in the rag slot of the thong tip and drawn from the muzzle toward the breech.

As neither ramrod nor jointed cleaning rod will be issued with the model of 1903 rifle, the cleaning rod should be carried into the field wherever practicable.

I will omit the next two paragraphs.

Many of the parts can generally be cleaned with dry rags. All parts after cleaning should be wiped with an oiled rag.

By Senator FORAKER:

Q. State whether or not in your experience it has been necessary to clean these rifles with the care and particularity indicated by these instructions in order to make them clean so they will pass a rigid inspection?—A. Yes, sir; they are frequently cleaned that way, but that is a pretty long operation.

Senator WARNER. Go on.

By Senator FORAKER:

Q. Tell us now any shorter operation by which they can be thoroughly cleaned.—A. I know of no shorter operation by which they can be thoroughly cleaned and all traces of powder in the grooves and lands completely removed, but they can be prepared for an ordinary inspection by running an oiled rag, on the end of the barrack cleaning rod, back and forth through them a number of times.

Q. With an oiled rag how long would it take to clean one of those rifles in the way you indicate, if it had been fired say five or six times, so that it would pass such an inspection as you gave these rifles the following morning?—A. I believe it would take at least ten minutes to thoroughly clean it, sir.

Q. Does that include the cleaning of the chamber and the bolt and all that also?—A. It includes the wiping of the end of the bolt, where a little brass would generally be found from the cartridge case.

Q. State whether or not there are in the chamber certain crevices or depressions on account of the arrangement of the mechanism that would have to be cleaned with the use of a stick, or some other thing that would answer the same purpose, placing the rag on the end of it.—A. Yes, sir; there are crevices and grooves which are apt to collect some particles of powder or brass that is scraped from the cartridge case by the sharp-edged extractors, the end of the bolt, and so forth.

Q. You inspected these rifles the following morning, did you?—A. Yes, sir.

Q. Before I come to that, you were out behind the brick wall there in the rear of the barracks two hours or two hours and a half. That was a pretty dark night, was it not?—A. Yes, sir; it was a starlight night; there was no moon.

Q. Could your men, without having sal soda or having water or having oil, and without having rags and rods, have cleaned those guns while they were out behind the wall, without regard to whether anybody could see them or not? Could they have done it?—A. I do not believe they could have done it thoroughly, sir, without a light.

Q. They would have to have some kind of a light, wouldn't they?—A. Yes, sir.

Q. Did you see anybody cleaning guns while you were posted behind the wall?—A. No, sir; I saw no one.

Q. Were you or not pacing up and down in the rear of your company and exercising supervision over it to such an extent that if anybody had been engaged in cleaning guns you would have seen

them?—A. I was in the rear of the company almost continually, and I do not believe that anyone could have cleaned his gun thoroughly without my seeing it.

Q. Could he have cleaned his gun at all without you or some non-commissioned officer seeing him?—A. I believe not without me or some noncommissioned officer seeing him.

Q. Now, then, finally you were dismissed, as I understand it, from your duty behind the brick wall, and then what did you do—by whose order were you dismissed?—A. We were dismissed by the commanding officer, Major Penrose.

Q. That must have been about half past 2 o'clock, you think?—A. Somewhere around there; yes, sir.

Q. Well, what did he order you to do and what did you do?—A. He ordered me to march the company to their barracks and dismiss them; to see that all the arms were locked in the armracks and verify the number, and the next morning to make a careful, thorough investigation of my arms and ammunition to see whether any of the rifles had been fired that night or any of the ammunition expended.

Q. Now, before I go to the execution of that order, I want to ask you something I forgot a moment ago. What was the conduct of the men while you were behind the wall in the way you have described? Was it such as to indicate that they were expecting an attack or afraid of an attack, or the contrary?—A. Why, it seemed to me that they were afraid of an attack; they were rather careful about exposing themselves.

Q. Did you learn before your company was dismissed that night that it had been charged by Mayor Combe that the soldiers of the garrison had fired on the town?—A. Yes, sir. I was near the main gate into town when Mayor Combe came up, and I heard part of the conversation with Major Penrose, in which Mayor Combe accused the soldiers of having done the shooting.

Q. Until that time had you any thought of that kind with respect to the matter?—A. No, sir; I did not; I did not believe for an instant that the men had done it.

Q. That was the first intimation you had that anybody made any such claim?—A. Yes, sir; it was.

Q. And then it was after that that Major Penrose dismissed you and told you to make these examinations, was it?—A. Yes, sir.

Q. You took your company back, as I understand you, to the barracks and dismissed the company. Then what did you do in execution of the major's orders?—A. I saw the arms locked in the racks and later—

Q. I will ask you, before you left the racks, whether or not you counted the guns after they were put into the racks?—A. Yes, sir; I counted them.

Q. How many were there, or were they all there?—A. I don't remember the exact number, but I remember adding to the exact number the number of men on guard and the number of rifles that should be in the storehouse, and the first sergeant's rifle, and adding up 70.

Q. That is to say, you accounted for 70 rifles, did you?—A. Yes, sir.

Q. Was that the full number that had been issued to that company?—A. That was all that we had—all the Springfield rifles we had.

Q. And you remember, do you, positively that at that time you knew that you had in the gun racks the full number of rifles that should be there after deducting the other rifles that you accounted for as being elsewhere?—A. Yes, sir.

Q. If there had been 3 rifles missing from the racks, would you or not have detected it?—A. If there had been what?

Q. If there had been 3 rifles missing, would you have detected it?—A. I believe I would have detected 1 short.

Q. You would have detected 1 short. Now, do you remember Thomas Taylor of your company?—A. Yes, sir.

Q. Do you remember seeing him that night?—A. I know that he was present that night, though I don't remember seeing his face in the ranks.

Q. How do you know that he was present—I mean present with your company, and I suppose you mean that?—A. Yes, sir; because I know that he was carried on the rolls of the company at this time, and I checked up the whereabouts of every man in the company that night.

Q. And you know that he answered to his name at the roll call, do you?—A. Yes, sir.

Q. Or if not that, that you found him elsewhere?—A. Yes, sir; I know he was accounted for at that roll call.

Q. You have told us of all who were absent from the ranks when the roll was called and he was not one of them; so therefore it follows that he was in ranks, does it not?—A. Yes, sir.

Q. Now, is that true also of Joseph L. Wilson?—A. Yes, sir; that is true of Joseph L. Wilson also.

Q. Do you remember seeing him in ranks that night?—A. No, sir; I do not. He is on one end of the company, and I believe in the rear rank, or at any rate not directly in front of me in the company. He is smaller than most of the men in the company.

Q. But if he had been absent when his name was called, you would have detected his absence, you would have observed it?—A. Yes, sir.

Q. You were paying particular attention, were you not, to the roll call?—A. Yes, sir; I was, because I believed that the barracks had been fired into, and I wanted to see if any man had possibly been wounded and left upstairs.

Q. And you also stated that you knew the voice of every man so you could distinguish it and recognize it when he answered to his name?—A. Yes, sir; I believe I am familiar with every voice in the company.

Q. Now, is what you have stated as to Thomas Taylor and Joseph L. Wilson also true as to Ernest English?—A. Yes, sir; I believe English was also present.

Q. Do you remember seeing him that night?—A. No, sir; I can not positively state that I saw the face of any man in the ranks that night.

Q. But you do remember distinctly that every man was in ranks answering to his name, except those whom you have given us the names of, who were away on the several duties you have mentioned?—A. Yes, sir; when a name would be called and no answer would be forthcoming—

Q. That night when the guns were put back in the racks, did you count them?—A. Yes, sir; I counted them as they were placed in the racks.

Q. Were the rifles locked up?—A. They were, sir.

Q. By whom?—A. By the noncommissioned officer in charge of quarters.

Q. Who was that?—A. Sergt. George W. Jackson.

Q. Is he a reliable man or not?—A. I believe him to be a reliable man, sir.

Q. And a truthful man?—A. I think so, sir.

Q. He had been a sergeant in that company for a long time, had he not?—A. He had, for several years, I believe, sir. He was in the company when I joined it.

Q. And a man of good record in every sense?—A. I believe he was, sir.

Q. Now, you saw the gun racks locked by him; then what did you do next after you had put the rifles away and locked them up in that manner?—A. I then went down and inspected the rifles in the storehouse.

Q. Who was in charge of the storehouse, or storeroom, whichever you call it?—A. Quartermaster-Sergeant Walker McCurdy.

Q. Was he, also, an old sergeant?—A. Yes, sir; he was an old sergeant of Company B.

Q. Was he or not a reliable and truthful man?—A. I always believed him to be such, sir.

Q. He had been in the service many years, had he not?—A. Yes, sir; he had.

Q. And had everybody's confidence as a good soldier and a faithful noncommissioned officer?—A. Yes, sir.

Q. He was the quartermaster-sergeant; as quartermaster-sergeant what was his duty with respect to the surplus rifles and surplus ammunition—I mean surplus in the sense that it was not in the hands of the men?—A. He was accountable for it, and it was his business to keep it locked up.

Q. You went to the storeroom after you locked up the rifles; who went with you to the storeroom?—A. The quartermaster-sergeant.

Q. Sergeant McCurdy?—A. Yes, sir.

Q. What did you do, and what did you tell him, and in what condition did you find the room; was it locked or unlocked when you went to it?—A. It was locked and he opened it. He took out a bunch of keys, as I recollect it, and fumbled around and got the right key and unlocked the door. The storeroom was very small, and we could not put all of our quartermaster property in there, and there was some confusion in the way in which the stuff was piled. We had to remove a lot of company property.

Q. I will come to that in a minute. What did you tell Sergeant McCurdy you wanted in the storeroom when you went there; did you tell him or not what you wanted to do until you got into the storeroom?—A. No, sir; when I got into the storeroom I told him that I wanted to see the rifles that he had in the storeroom.

Q. That is, rifles that he had in his possession?—A. Yes, sir.

Q. Did you know how many rifles he had in his possession at the

time?—A. I did, by referring to the company property book which was kept there.

Q. We will speak about that presently. Now, go on and state what you did and what he did when you told him.—A. He told me that the rifles were locked up in the arm chests. I told him to open them, and he opened one full arm chest that contained 10 rifles, and also opened another that, I believe, contained two or three rifles and several old company shotguns.

Q. Now, before you opened the arm chests, let me ask you whether or not they were easy to get at, or whether there was anything on top of them?—A. No, sir; they were not easy to get at. As I recollect, we removed considerable property before we got the arm chests out and got room to unscrew the lids.

Q. What kind of property was this?—A. Iron quartermaster bunks and, I believe, some iron uprights to hold mosquito bars—T-shaped things.

Q. They had been piled on top of these arm chests, had they?—A. Yes, sir; and were standing against the wall, between us and the arm chests.

Q. When had you last before that seen these arm chests, and where?—A. I had seen them at Fort Niobrara, Nebr., before shipment, and when they were unloaded from the wagons and placed in the storehouse at Fort Brown.

Q. Where were these extra guns placed in these arm chests, whether at Fort Niobrara or Fort Brown, or where?—A. They were placed in the arm chests at Fort Niobrara.

Q. Do you remember seeing the guns—rifles—put in the arm chests and the arm chests closed up for shipment at Fort Niobrara?—A. I do not believe I was present when the property was boxed up. It was boxed up sometime before our departure, and Captain Shattuck was in command of the company at that time.

Q. You have told us in what condition you found the chests as to other property being piled on top; this property was removed, was it, from the tops of the chests?—A. Yes, sir.

Q. And then were the chests opened, or not?—A. They were opened under my supervision and the arms counted.

Q. State in what condition you found the inside of those chests, as to the arms.—A. The arms were placed in the proper grooves for them, and they were battened down, or held down by cleats that fit in the boxes, to prevent their rattling around during shipment.

Q. They had been fixed that way before they had left Niobrara?—A. Yes, sir.

Q. And were they in that same condition when you opened them that night?—A. They were in the same condition, sir.

Q. Did you count the rifles when they were opened up?—A. Yes, sir; I counted them.

Q. I will ask you another question, whether or not, before these rifles were shipped from Fort Niobrara, they were coated with cosmoline oil or any other kind of oil?—A. I believe they were coated with cosmoline oil at the time I looked at them at Fort Brown.

Q. When you looked at them was there any indication that they had been disturbed in any way whatever since they had been boxed up at Fort Niobrara?—A. No, sir; there was not; I did not take

out all the rifles; I could count them without taking them out of the boxes; I picked up one or two from the top.

Q. And you did count the rifles in both boxes?—A. Yes, sir.

Q. And you remember that the requisite number of rifles were there, added to the other rifles that you found in the racks, and that you counted as away from there, to make up the number of 70?—A. Yes, sir.

Q. There was not a rifle missing, was there?—A. No, sir.

Q. Now, can you tell us anything about what rifles were in those boxes—I mean whether any of those rifles had been assigned at any time previously to anybody, and if so, to whom, in the absence of the property book, or would you rather have the property book before you go into that?—A. I can state without the property book that quite a number of those rifles that were packed had been used in target firing at Fort Niobrara, Nebr.

Q. I wish that you would tell me, as nearly as you can, just what rifles, giving me the names of the men who carried them—we will get the numbers later—were in that box that had been used in target practice or in any way by men to whom they had been assigned before you left Fort Niobrara for Fort Brown.—A. Well, Sergeant Blaney had taken part in target practice, and his rifle was in the box.

Q. Tell me why he was not with you and why his rifle was in the box, before we pass that.—A. He was not with us because he was on furlough.

Q. How long a furlough did he have?—A. I believe he had two months, sir; I am not positive.

Q. Well, he had reenlisted, had he not? He had a furlough on that account?—A. Reenlisted on the expiration of term of enlistment and then been given a furlough.

Q. And before he left on furlough he turned his rifle in?—A. Yes, sir.

Q. And that was in the box?—A. Yes, sir.

Q. He had not returned from his furlough?—A. No, sir; he had not.

Q. Now, I have a list of names here, which I will ask you about. Can you tell us whether or not there was a rifle in that box that had been assigned to, and had been used by Shepard Anderson, of your company?—A. Yes, sir.

Q. What had become of him, and why had his rifle been turned in after it had been used?—A. He had been discharged from the service by a general court-martial, and his rifle had been turned in, and placed in this box for shipment to Fort Brown.

Q. He had been discharged before you left Fort Niobrara?—A. Yes, sir.

Q. Before you left Fort Niobrara?—A. Yes, sir.

Q. Now, Charles W. Johnson's rifle was in that box; had he participated in the target practice?—A. Yes, sir; Charles W. Johnson participated in target practice, and he was on furlough, and his rifle was in the box.

Q. I will ask you about Thomas A. Hines. Do you know anything about him?—A. He deserted at Fort Niobrara. I recollect that he took part in the target practice there. I think he deserted along toward the end of it.

Q. Did he leave his rifle, too?—A. Yes, sir.

Q. And was that in this box?—A. Yes, sir.

Q. Lewis C. Owens; what about him and his rifle?—A. Lewis C. Owens was sent to Fort Bayard, N. Mex., shortly after we left Fort Niobrara for Fort Brown.

Q. Was his rifle turned in?—A. Yes, sir; it was turned in, and was in this box. I would like to add there that these rifles of these men I have mentioned as leaving were all in this box, unless perhaps they had been reissued, and the company property books would show that.

Q. Yes; and you know that all these men that had guns had turned in their rifles, and they would be in that box unless they had been reissued to somebody else, and the property books will disclose that fact, if they were, when we get them?—A. Yes, sir.

Q. Henry Odom; who was he?—A. He was the musician of Company B, and had been issued a rifle for target practice only. On the conclusion of target practice he turned this rifle in at Fort Niobrara, Nebr., and it should have been in that box.

Q. Now, I will ask you whether or not Captain Shattuck had had a rifle issued to him while you were at Fort Niobrara for use in target practice?—A. I believe he had, though I am not positive of it, sir.

Q. What is the customary way of issuing a rifle to a commanding officer of a company when he wants to use it in that manner? Is it charged to him on the property books, or does he give his own receipt for it, or how?—A. The company officers generally give their own receipts for property taken and used in that way.

Q. That is the practice?—A. Yes, sir.

Q. And when they return a gun, what is done with that receipt?—A. The receipt is torn up.

Q. So that the property book will not show whether Captain Shattuck had a gun or not?—A. No, sir; that would not be entered on the property book.

Q. But do you know of your own knowledge that he had a rifle and used it on the target range at Fort Niobrara?—A. I am not perfectly sure that he had a rifle and used it on the target range at Fort Niobrara, but I believe he did. I know he did some firing on the range.

Q. How about yourself, did you have a gun and do firing on the target range?—A. Yes, sir; I had a gun throughout the entire target season, for which I gave a memorandum receipt.

Q. Will you give us the number of your gun?—A. Yes, sir; the gun was No. 45517.

Q. 45517?—A. Yes, sir. I have the number of it here [producing memorandum].

Q. I wish you would make certain of that, and then tell us how you are able to tell the number of that gun.—A. I telegraphed to Lieut. W. J. Hawkins, of the Ordnance Department.

Q. At Springfield?—A. At Springfield, Ill.

Q. You mean Springfield, Mass.?—A. Yes, sir; Springfield, Mass., I should say. I telegraphed to him to give me the number of my gun. I had a mark on it by which I described it to Lieutenant Hawkins, and he telegraphed me that it was No. 45517.

Q. In that way you are able to give us the number of your gun?—
A. Yes, sir.

Q. Were all commissioned officers required to do a certain amount of target practice?—A. Yes, sir; all officers with less than fifteen years' service have to take the regular target course.

Q. So you had this rifle while you were at Fort Niobrara?—A. Yes, sir.

Q. And you had returned that to the storeroom?—A. I had returned it to the storeroom, sir; and it should have been packed in this box.

Q. And it was in the box, was it not, I suppose?—A. I believe so, sir.

Q. Now, can you tell us about Thomas H. Jones, an artificer of the company, as to whether or not he used a rifle at Fort Niobrara in target practice, which had been returned and was in this box?—A. Yes, sir; Jones was the best shot in the company, and with the view of sending him to represent the company at the division rifle competition he had been allowed to change his rifle until he got one to suit him. I know that he changed his gun, turned in the first rifle issued to him and got another.

Q. I will state to you, Lieutenant, that I looked at the Company B property book at the office of the Chief of Ordnance the other day, and found that Thomas H. Jones, artificer, was charged with numbers 48790 and 39919. Now, if that is correct, one or the other of those rifles, I suppose, was turned in at Fort Niobrara?—A. Yes, sir.

Q. If any of these guns that were thus issued and then turned in were not in that box, it was because they were reissued?—A. Yes, sir.

Q. And the property books would show whether or not they had been reissued or not?—A. Yes, sir; they should show it.

Q. As soon as we get the property book we can settle that definitely. Can you think of any other guns that had been assigned to men or issued to anybody to use on the target range at Niobrara before you went to Fort Brown?—A. No, sir; I can not.

Q. It has been suggested to me that possibly Lieutenant Grier, the quartermaster, had a gun from your company. Do you know whether or not he did have a gun for target practice?—A. I thought he did, but I am not sure of this. Lieutenant Grier could probably tell you about that.

Q. Yes. He is here and can testify about it. You do not remember?—A. No, sir.

Q. Now, Mr. Lawrason, I have before me here a report made by Lieutenant Hawkins and Inspector Spooner as to the results of the microscopical inspection and general investigation and examination of all these rifles. When the property book comes, which I have been informed is on the way, I will take up this report, but not until then. I have got the premises laid for it.

You made this examination, you and Sergeant McCurdy, your quartermaster-sergeant, and you thoroughly satisfied yourself, did you, that those boxes had not been opened since they left Niobrara?—
A. Yes, sir.

Q. And that every gun was in there that was placed there before you left Niobrara?—A. I believe such to be the case, sir.

Q. And that not only from the counting of the guns, but from the

general appearance, the undisturbed appearance, of the condition in which you found the guns?—A. Yes sir.

Q. And if the boxes had been opened it would have involved the removal of all this baggage which you found on top of them. Before we leave that I will ask you another question. You saw the guns put in the racks and locked up. How many keys were there to the gun racks by which those gun racks might have been opened that night?—A. There was only one key, I believe, to each lock. I know that on the bunch of keys the key that would unlock rack No. 1, for instance, would not unlock rack No. 2.

Q. Could a gun that had been fired be cleaned while in the gun rack—thoroughly cleaned so that it would pass inspection?—A. I do not believe that it could be thoroughly cleaned. A wiper can be run in, as I have found later, by extracting the bolt and turning the rack over on one side.

Q. Doing that, could you pass the rod or the rag clear through the bore, or would it not stop, necessarily, before you got to the end of the bore? In other words, is there not a piece right over the end of the bore up against which the bore fits tightly?—A. Yes, sir; there is. I have never tried this experiment, but I do not believe that you can run the rag clear through at the other end. You would have to run it down and pull it back.

Q. Yes; and that would not completely and thoroughly clean a gun, would it?—A. I should think not, sir.

Q. Now we will come to this next morning. What happened the next morning with respect to these rifles? I will ask you at what time, if you can state it, did you have reveille at that time in Fort Brown?—A. Reveille, I believe, was in the neighborhood of a quarter or half past 6. I don't remember exactly now.

Q. Well, whenever it was, then you had after that breakfast call and then you had drill call, did you?—A. Yes, sir.

Q. Did you have drill call that morning? Did you have the drill call at the regular time?—A. Yes, sir; I believe the call went at the regular time.

Q. What happened when the drill call was sounded?—A. When the drill call was sounded the men were assembled under arms, and instead of drill their rifles were inspected.

Q. Who inspected them that morning?—A. That morning the rifles of each company were inspected by the company commanders. I inspected the rifles of Company B.

Q. What kind of an inspection did you subject those rifles to that morning? I mean was it a careful inspection, with a view to finding out whether they had been fired or not?—A. Yes, sir; I made a careful examination with respect to whether they had been fired—that is, I examined the bore and the chamber and the bolthead for any evidence of firing.

Q. Did you observe any evidence of firing in your examination of the bores or of the bolt heads or of the chambers, or of any other part of the guns?—A. I thought not, sir. There were several men whose pieces were not exactly up to the standard, and I thought I would like to make a more thorough examination of those pieces, and these men I had fall in in a separate squad.

Q. How many were there of them?—A. As I recollect, there were seven men, sir.

Q. Is that an unusual thing, where you are inspecting a company, to find some pieces that you want to reinspect after you have passed through the whole company?—A. It is not an unusual thing to find several pieces that are not up to the standard. As a general rule, these pieces are not reinspected, but the men are punished or reprimanded for the delinquency.

Q. You think that you stepped aside seven men, and all of the rest of the guns were entirely satisfactory?—A. To me; yes, sir.

Q. You saw no powder stains?—A. No, sir.

Q. Or anything to indicate that the guns had been fired?—A. No, sir; nothing whatever.

Q. When had you the last time before that inspected these rifles?—A. On the Saturday morning preceding this.

Q. You had an inspection once a week on Saturday morning, did you not?—A. Yes, sir.

Q. You did at that time?—A. Yes, sir.

Q. And this was the first inspection after the regular weekly inspection?—A. Yes, sir.

Q. And you found all the rifles satisfactory at the first inspection except perhaps those of seven men, whom you stepped aside?—A. Yes, sir.

Q. Were all your rifles and men in line that morning that should have been there?—A. Yes, sir; they were all in line—the men were—except the guard and the sick.

Q. There would be seven on guard, and two were in the hospital; and now you spoke of John Brown and Elmer Brown and William Smith as being absent that night. State whether or not they were present the next morning at this inspection.—A. Yes, sir; they were present at this inspection.

Q. They were all present, and with their guns?—A. Yes, sir.

Q. So that they were examined as well as the others. Now, what men were absent from the company who were carried at that time on your roll? Blaney, I suppose, was one, and Owens was another?—A. And Wilson.

Q. Which Wilson?—A. Ruby Wilson, who was at Fort Bayard, N. Mex.

Q. That is spelled R-u-b-y?—A. Yes, sir.

Q. He was not Joseph L. Wilson?—A. No, sir.

Q. Joseph L. Wilson was present in ranks?—A. Yes, sir.

Q. Thomas Taylor was present in ranks?—A. Yes, sir.

Q. And Ernest English was present in ranks?—A. Yes, sir.

Q. They were all there. You examined all these guns, and all your guns were there; and all your men were there except those who were away in the manner you have indicated?—A. Yes, sir.

Q. That is, those on guard, and one at Fort Bayard, and one on the target range at Fort Sill?—A. And those on furlough.

Q. Those on furlough; and Blaney and Ruby Wilson?—A. And Johnson.

Q. And Johnson, who was here; and the artificer, Jones?—A. Yes, sir.

Q. Every man was present who could have had a gun out of your racks the night before, was he not?—A. Yes, sir; I believe he was.

Q. What was done as to the seven men—if that is the correct number—whom you stepped aside for reinspection?—A. Before I

could reinspect these pieces, Major Penrose came along and ordered me to march my company out at once and relieve Company C, which had been on guard all night and had had no breakfast; and I told him that there were some pieces there that I wished to reinspect, and I wished that he would look at them himself, and he said he would, and I marched the company around to relieve Company C, leaving Sergeant McCurdy to assist Major Penrose and Captain Lyon in their inspection.

Q. Was Captain Lyon present there when you made that remark to Major Penrose?—A. Yes, sir; I believe he heard this remark. He was standing in the vicinity.

Q. Do you know whether or not Captain Lyon and Major Penrose and Sergeant McCurdy did inspect those guns—Sergeant McCurdy, I mean, assisting in the way of getting materials necessary for inspection?—A. I didn't see them, but I believe that the inspection was made, sir.

Q. What happened as to your men?—A. They joined me one by one out at the wall and took their places in line.

Q. How long afterwards—how long after you had left them behind?—A. Long enough for each one to have been given a thorough inspection. I don't believe the first one joined until about ten minutes, probably, after I posted the men.

Q. And they did all join you one after another, in turn?—A. Yes, sir.

Q. Did you hear that any of the other guns had failed to pass inspection?—A. No, sir; I did not. I inquired later and found that none of these pieces, in the opinion of Major Penrose and Captain Lyon, had been fired.

Q. Did you also ascertain whether or not they had made a careful inspection of them?—A. Captain Lyon, I believe, told me that they had made a careful inspection by passing clean white rags through the bore.

Q. With the result that they found nothing to indicate powder stains?—A. No, sir.

Q. The guns were entirely clean. Now, you have told us about the guns, and I wish you would tell us about the ammunition. How much ammunition did your men have that night before the firing, if you can recall, and what kind of ammunition was it?—A. I don't recall, of my own knowledge, whether they had 10 or 20 rounds. I believe they had 20. It was the regular steel-jacketed ammunition, I think.

Q. That is the ball cartridge?—A. Yes, sir; issued them for guard purposes.

Q. Now let me, before we go further with that, ask you about something that happened at Fort Niobrara. At Fort Niobrara you were issued these new Springfield rifles, as I understand?—A. Yes, sir.

Q. Can you give us about the date when those rifles were issued to you?—A. I believe it was about April 1. I am not positive of this date.

Q. About April 11 or 12, I think the record shows. That is not material.—A. Yes, sir.

Q. You were issued there the early part of April your new rifles?—A. Yes, sir.

Q. Before that time you had the Krag-Jørgensen rifle and Krag-Jørgensen ammunition?—A. Yes, sir.

Q. Were those Krag-Jørgensen rifles and the ammunition all taken up, of your company?—A. Yes, sir.

Q. At that time?—A. Yes, sir; they were.

Q. State whether or not any surplus Krag-Jørgensen ammunition or guns were left with you?—A. No, sir. Captain Shattuck had had all this old ammunition and the old rifles and parts pertaining to same packed up and shipped to the Rock Island Arsenal at Rock Island, Ill., to the ordnance officer there.

Q. So that when you got your new rifles and got the ammunition for your new rifles you started in with a clean sheet, so to speak?—A. Yes, sir.

Q. You started in anew, with the guns and ammunition. You got 70 guns, you told us a while ago. They were immediately, I suppose, assigned, in so far as you had men to use them, to the different men of your company?—A. Yes, sir; they were.

Q. And a new account with your men was opened as to your rifles and ammunition?—A. Yes, sir; I believe we started a new property book.

Q. Yes; at that time? Now, how many rounds of ammunition were issued to each man in the beginning, when you first got your rifles—10 rounds, was it not?—A. Yes, sir; 10 rounds, I remember, at Niobrara. Generally they had only 10 rounds—two clips in a box.

Q. I will ask you whether or not when you left Niobrara to go to Fort Brown you did not issue an additional 10 rounds to each man, and if you were not required to do so by general order?—A. Yes, sir; I believe that this was done.

Q. So that each man would have 20 rounds of this ammunition then?—A. Yes, sir.

Q. While on his trip from Fort Niobrara to Fort Brown?—A. Yes, sir.

Q. Do you remember of any of that ammunition being taken up after you got to Fort Brown before the firing?—A. I do not recollect, sir.

Q. So that if none was taken up each man would have had 20 rounds that night?—A. He would, that night.

Q. And that is your present opinion and belief, is it?—A. Yes, sir.

Q. So that assuming that he had 20 rounds, what did you do that night with reference to the ammunition? Was any additional ammunition issued or not; and if so, how much?—A. Yes, sir; a new case of ammunition, sealed and containing 1,200 rounds, was brought out and opened in my presence, and bandoliers distributed along the ranks. Each man was ordered to take two or three clips, making about 15 rounds to the man. Some, I suppose, had a clip or two more than that, and some possibly a clip less.

Q. Yes; that was issued in rather a hurried way that night?—A. Yes, sir; it was. Most of the men had not brought down their McKeever boxes—they could not find them in the dark—in which they kept their regular ammunition.

Q. That twelve hundred rounds was issued in that way, as I understand. That was before you went around in rear and took position in the rear along the brick wall, was it not?—A. Yes, sir.

Q. What, if anything, was done with respect to your ammunition after the firing was over? When you were inspecting the rifles and counting them in the gun racks and putting them in the gun racks,

did you take any account of the ammunition then or later?—A. I checked the ammunition up the next morning, and it checked up to my satisfaction. I had each man turn in what he had in excess of the twenty rounds that he originally had before this issue had been made, and the ammunition checked up almost exact.

Q. Was this the next morning, or the morning of the 15th, when you came off guard duty? Which was it, if you can recollect?

Senator WARNER. What was that?

Senator FORAKER. I asked him when he turned in the extra ammunition.

By Senator FORAKER:

Q. You went on duty the morning of the 14th—that was the next morning after the firing—to relieve Company C, and you remained on duty with your company twenty-four hours?—A. Yes, sir.

Q. Do you remember whether you turned in these twelve hundred rounds of ammunition before you relieved Company C, or was it the day following when you came off duty?—A. I believe that I checked the ammunition up on the morning of the 14th.

Q. On the morning of the 14th?—A. Yes, sir.

Q. And these twelve hundred rounds you required to be returned at that time, did you?—A. Yes, sir. You understand that not all of this twelve hundred rounds had been issued; only about three clips to a man had been issued.

Q. What I want to get at is, all that had been issued, whether it was six hundred rounds or twelve hundred rounds, was returned to the quartermaster-sergeant, was it?—A. Yes, sir; it was.

Q. And counted up and checked up?—A. Yes, sir; counted up and checked up.

Q. That was counted carefully by you and the quartermaster-sergeant?—A. Yes, sir.

Q. And the whole 1,200 rounds was put back in the case and the case was closed up?—A. Yes, sir.

Q. And returned to the storeroom?—A. And returned to the storeroom, sir.

Q. So that that left your company with the exact amount of ammunition it had before the firing, which, if we are right, was 20 rounds to the man?—A. Yes, sir.

Q. Now, do you know any way by which, at Fort Niobrara or Fort Brown, your men could get surplus ammunition?—A. I know of no way at Fort Brown. At Fort Niobrara it might have been possible during the two or three years that they were there to pick up a round now and then on the target range without anyone seeing them.

Q. That would be of the Krag-Jørgensen ammunition?—A. Yes, sir; that would be of the Krag-Jørgensen. No——

Q. But at——

Senator WARNER. Let him finish. He started in to say something further.

The WITNESS. I was going to say no; there would be no way at Fort Brown.

By Senator FORAKER:

Q. Now, at Niobrara, I am speaking of the Springfield ammunition. They engaged in target practice there, did they not?—A. Yes, sir.

Q. We want to find out what the rules and regulations are as to your regiment that govern target practice. Are the men or not, when target firing, under the supervision and eye of an officer and noncommissioned officers all the while?—A. Yes, sir; they are.

Q. Are the men allowed to filch cartridges and stick them in their pockets and appropriate them and carry them away, or is that contrary to the rules and regulations?—A. Yes, sir; it is contrary to rules and regulations, sir.

Q. If you were to catch a man at it, what would you do with him if you caught him misappropriating cartridges?—A. I think I would try him for losing ammunition or disposing of same.

Q. And for violating orders, would you not?—A. Yes sir.

Q. State, when you go out to do target firing, how the ammunition is provided that the men are to use?—A. It is carried from the company storeroom to the target range generally in a cart—a little company handcart.

Q. That is the way you did at Fort Niobrara?—A. Yes, sir.

Q. Your range is near the fort there, is it not?—A. Yes, sir; it is.

Q. And they just take it out in a little handcart?—A. Yes, sir; and this box of ammunition is placed at the firing point, and when a man comes to fire he takes his ammunition from that box and does his firing, and on the conclusion of firing he is supposed to return to the box all that he has not fired.

Q. Yes; and if he would fail to return any cartridges that he had not fired, he would be liable, if he were detected in neglecting his duty in that respect, would he not, to be punished?—A. He would be punished if it could be proved that he took this ammunition with the intention of disposing of it.

Q. If it could not be proved that he took it with the intention of disposing of it, but simply that he took it, you would require him to return it?—A. Yes, sir.

Q. You would not allow him to keep it?—A. No, sir.

Q. And if he insisted on keeping it he would be punished?—A. Yes, sir.

Q. And whatever may be the rule in other regiments, that was the rule in your regiment?—A. Yes, sir.

Q. And has been ever since you have belonged to it?—A. Yes, sir; it has.

Q. So that no man could appropriate even a single cartridge without running the risk of being detected by the officer under whose eye he was doing this target firing, and being punished for it?—A. Yes, sir; or made to turn it in.

Q. Coming back now to Fort Brown; each of your men had 20 rounds. We will assume that that was the number they had, instead of 10 rounds.—A. Yes, sir.

Q. When, if at all, after this firing were the 20 rounds—if that is the correct number—returned to the storeroom by the men, if you know?—A. It seems to me that we replaced some of this ammunition with guard ammunition—that is, with the reduced range ammunition.

Q. With what?—A. The reduced-range ammunition.

Q. Yes.—A. While at Fort Brown, after this shooting occurred.

Senator WARNER. That was after the shooting?

The WITNESS. After the shooting, I believe; yes, sir.

By Senator FORAKER:

Q. I will ask you if that did not occur on the morning of the 15th when you came off duty—when you had relieved Company C?—A. Probably it did. It was shortly after the firing.

Q. Can you tell how much reduced-range ammunition your company had?—A. I believe that we only had about a thousand rounds.

Q. I will ask you to look at your company ordnance return, which has been printed in our record here, and state whether or not that does not show that the total amount of guard ammunition issued to you was 650 rounds?—A. I do not recollect the correct amount, sir.

Q. I have your return printed here. Do you remember when you made your first ordnance return after taking command of the company?—A. Just about the time I took command of it. The company ordnance was transferred from Captain Shattuck, as company commander, to me as company commander, on this ordnance return.

Q. Please turn first to page 268 of our hearings. There is a return that is signed by you, following a certificate, which I will read:

I certify that all the ordnance and ordnance stores enumerated on this return as "transferred to Second Lieut. Geo. C. Lawrason, Twenty-fifth Infantry," were this 1st day of May, 1906, received by me from Capt. A. B. Shattuck, Twenty-fifth Infantry.

Post-office address, Fort Niobrara, Nebr.

GEO. C. LAWRASON,

Second Lieutenant, Twenty-fifth Infantry, Commanding Company B.

That certificate was correct, was it?—A. Yes, sir.

Q. At that time all the articles that you thus certified about were carefully enumerated, were they not?—A. Yes, sir.

Q. And inspected and counted. That shows that you got from him 70 Springfield rifles?—A. Yes, sir.

Q. 26,400 ball cartridges?—A. Yes, sir.

Q. And 1,140 ball cartridges for gallery practice?—A. Yes, sir.

Q. Now, on the next page, page 269, we find another return signed by you, with this certificate:

I certify that I have made a careful inventory of the various quantities of small-arms ammunition for which I am accountable and have taken up on my return all surplus ammunition on hand, and that said return shows the actual quantities of small-arms ammunition on hand at the end of the period for which it is rendered.

GEO. C. LAWRASON,

Second Lieutenant, Twenty-fifth Infantry.

That certificate was correct, was it?—A. Yes, sir.

Q. According to that report, looking at the last line of it, there was then remaining on hand, to be accounted for on the next return, the following: Caliber .30 rifle ball cartridges, 8,900?—A. Yes, sir.

Q. Blank cartridges, 3,676?—A. Yes, sir.

Q. Dummy cartridges, 130?—A. Yes, sir.

Q. Ball cartridges, reduced range (guard cartridges), 650?—A. Yes, sir; that, then, was all we had.

Q. I do not need to read any further. That is as far as we are concerned about it. Those figures are correct, are they not?—A. Yes, sir; I believe they are correct.

Q. You were not certifying about any ammunition you did not know about?—A. No, sir.

Q. You had 650 of those cartridges. If you will turn to page 273 following there, you will see that Capt. Edgar A. Macklin certified that Company C had 650 reduced-range cartridges?—A. Yes, sir; I believe that is all that was issued to any company of the Twenty-fifth at Fort Niobrara.

Q. Captain Lyon, as you will see by reference to page 278, also had 650 of these cartridges. That is correct, then, is it?—A. Yes, sir.

Q. I have called your attention to this with particularity because you stated you thought you had only a thousand rounds of these cartridges. In fact, you had exactly 650 rounds, did you not?—A. Yes, sir.

Q. And you did not use any of it at all—that is, you did not expend any of it while you were in command of the company?—A. No, sir; none of that was expended.

Q. On the morning of the 15th when your company came off duty, you say you took up this ball cartridge to some extent and issued guard cartridges in place of the ball cartridges. That is what I understood you to say?—A. Yes, sir.

Senator WARNER. He took up all the ball cartridges.

Senator FORAKER. No; he said he took up a part.

Senator WARNER. How was that, Lieutenant?

The WITNESS. I do not believe I had enough guard ammunition to go around. I had 20 rounds of ammunition to a man.

By Senator FORAKER:

Q. That is the way I understood it. You took up your 20 rounds of ball cartridges and then issued the guard cartridges, 20 rounds to each man, as far as it would go?—A. Yes, sir.

Q. And then pieced out to the others, who did not receive the guard ammunition, with the ball cartridges?—A. Yes, sir.

Q. And you continued to have only that kind of ammunition until you got ready to leave there?—A. Yes, sir.

Q. Please state, Lieutenant—we are not interested beyond that—whether, when this exchange of ammunition was made on the morning of the 15th, you examined the ammunition to see whether each man had all of his cartridges or not; whether or not each man's ammunition was checked up and found to be intact.—A. Yes, sir; it is my recollection that when the ammunition that was issued the night before—that is, on the night of the 13th—was turned in each man's ammunition was checked up, and it was seen that he retained in his possession only 20 rounds.

Q. That was done, then, on the morning of the 14th?—A. I do not recollect for certain the date, but I remember—

Q. But you do remember distinctly that each man's ammunition was checked up, do you not?—A. Yes, sir.

Q. And it was found to be accurate, to a cartridge, was it not?—A. Yes, sir.

Q. Now, I will ask you if there was not, in addition to the guns that were in that box that night, one or two other guns that were standing in the storeroom; and if so, can you recall whose guns they were?—A. Yes, sir; there was Sergeant McCurdy's gun, which he brought in with him when he came to inspect these guns after the return of the company, and the gun that Private Allison had turned in just a day or two before. He had been discharged.

Q. He was discharged on the 11th of August, was he not?—A. Yes, sir. Then the first sergeant kept his gun in his room.

Q. So that you had three guns not in the gun racks; but they were all there, were they?—A. Yes, sir.

Q. Now, as we have not the property book, I will ask you about these six bullets that were sent here?

By Senator FRAZIER:

Q. Just one question there. Did you give the name of the third man whose gun was sitting in the property room there? Allison was one and McCurdy was another. Who was the third man?—A. I believe there were only two guns there.

Senator BULKELEY. He said the first sergeant kept his gun in his room.

The WITNESS. He carried his gun to his room; yes.

By Senator FORAKER:

Q. Are you familiar with the Krag-Jørgensen rifle?—A. Yes, sir.

Q. You handled it at West Point as a cadet?—A. Yes, sir; and afterwards, after I graduated.

Q. After you graduated?—A. On the target range.

Q. The Krag-Jørgensen was No. .30 caliber, was it?—A. Yes, sir.

Q. Look at the gun that is now handed you and tell us whether that is the Krag-Jørgensen rifle that the infantry was armed with. No; that is a Springfield in the rack. We have a Krag-Jørgensen here also.

(A Krag-Jørgensen rifle was here handed to the witness.)

By Senator FORAKER:

Q. Look at the gun now handed to you and state whether or not that is a Krag-Jørgensen of the kind that the Army was equipped with, and you were equipped with as a cadet, and had afterwards on the target range.—A. Yes, sir; this is a Krag-Jørgensen rifle, model of 1898.

Q. That is .30 caliber, is it?—A. Yes, sir.

Q. Do you know how many grooves there are in that gun?—A. I think there are four, sir.

Q. And four lands?—A. Yes, sir.

Q. I wish you would look at the gun now handed to you and tell me, if you can, what that gun is. [A carbine was here handed to the witness.]—A. This is a Krag-Jørgensen carbine.

Q. Who carried that gun?—A. This was issued for use in the cavalry.

Q. Is that the same caliber?—A. Yes, sir; the same caliber, and uses the same ammunition.

Q. It uses the same ammunition; so that you can fire a No. 30 cartridge that fits the Krag-Jørgensen rifle out of this Krag-Jørgensen carbine just as well?—A. Yes, sir.

Q. That has four lands also, has it not?—A. Yes, sir.

Q. It is precisely like the Krag-Jørgensen rifle, except that it is a carbine; that is, it is 8 inches shorter in the barrel?—A. Yes, sir; it is shorter.

Q. And there may be some minor differences?—A. And it is not fitted for bayonet; that is all.

Senator FORAKER. I will put in the record later a quotation from the book issued by the Ordnance Department entitled "Description, and Rules for the Management of the U. S. Magazine Rifle and Carbines, Caliber .30," dated Washington, Government Printing Office, 1898, pages 25 and 26, except the figures, which it might be difficult to reproduce in the record, and which it is not necessary to reproduce. There is one sentence here which covers all that I want to put in. I can not turn at the moment to what I wanted to put in evidence, but it was simply a description of the gun, which indicates that the carbine is exactly like the rifle and that the same cartridge is used. I will find it and put it in later.

Senator FRAZIER. He has already sworn to that.

Senator FORAKER. Yes; you have sworn to that, and there is no question about that?

The WITNESS. No, sir.

By Senator FORAKER:

Q. You are familiar with the kind of cartridge that was used in the Krag-Jørgensen, both the rifle and the carbine?—A. Yes, sir; fairly familiar with this cartridge.

Q. And you are familiar also with the cartridge used in the Springfield, are you?—A. Yes, sir.

Q. Can you tell the difference between a Springfield bullet and a Krag-Jørgensen bullet after they had been fired and are separated from the cartridge case?—A. I do not believe I could, sir, if it had been fired and penetrated anything. I believe there is a slight difference in the nose of the bullet, the end of it being a little blunter in one case than in the other.

Q. I will ask you to look at the bullets which will be handed to you now, which, it is claimed, were fired into houses in Brownsville on the night of August 13, 1906, and tell me whether or not, looking at them in the condition in which you find them, you could tell whether they were Springfield or Krag-Jørgensen bullets; and in order that you may have before you a Springfield bullet I send you a Springfield rifle cartridge.—A. Do you want my opinion on every one of these bullets, sir?

Q. Yes; whether or not you could tell from looking at them whether they are the one or the other?—A. (Examining bullet.) I could not tell the one marked with a "5" on the envelope containing it.

Q. Just put that back in the envelope so that it will not get mixed. [The witness did so.] You have a Springfield bullet before you there?—A. No, sir; this is not a Springfield bullet. This is a Krag cartridge.

Q. I beg your pardon, I took this out of the other box.—A. I could not tell in the case of No. 3, whether it was a Springfield or a Krag-Jørgensen bullet, I do not believe, sir.

Q. Very well. Here is a Springfield cartridge. [A Springfield cartridge was here handed to the witness.]—A. Yes, sir; that is a Springfield cartridge.

Q. With all those before you, the Springfield cartridge and the Krag cartridge and all those bullets, tell us whether, looking at the bullet alone in its battered-up condition, you could tell whether

it was one or the other?—A. (Examining bullet.) No, sir; I could not tell in the case of this one, either.

Q. What is the number of that one?—A. This is No. 3, sir.

Q. Put it back in the No. 3 envelope.—A. Yes, sir. [Returning bullet to envelope and examining another bullet.] I could not tell in the case of No. 4.

Q. Put that back in the envelope.—A. [Returning bullet No. 4 and examining another bullet.] I could not tell in the case of No. 2.

Q. Very well; put that back in the envelope.—A. Yes, sir. [Witness returning bullet to envelope and examining another bullet.]

Q. That is all, is it not?—A. No, sir; here is No. 1. I could not tell in the case of No. 1. [The witness returned the bullet to its envelope.]

Senator FORAKER. Mr. Chairman, before I examine any other witness about these bullets, I would like to have them weighed, if the committee will allow me to have them sent out to the Bureau of Standards for that purpose. There were three bullets sent to the Senate by the President in connection with his message and the Purdy testimony, and I had them weighed by the Government official who is in charge of the official scales, and have the results. I have not put them in evidence. I would like to have these weighed also.

Senator WARNER. Why not send them right down now?

Senator FORAKER. I wanted to ask permission of the committee to have them weighed, and if they might be sent to the Bureau of Standards I would like very much to have that done, and I will get Mr. Turner to take them there and have them weighed for the committee.

By Senator FOSTER:

Q. Can you use the Krag cartridge in the Springfield rifle?—

A. I do not believe you can, sir, although I am not sure, because the chamber is so much larger in the case of the Springfield that I believe the Krag cartridge would probably fall forward, and the primer of the cartridge would be away from the firing pin so that it would not be struck. It might be possible, sir. I have never tried this.

By Senator FORAKER:

Q. I send you one other bullet for you to examine. There is a number on it. Please examine that also.—A. (After examining bullet in envelope numbered "6.") No, sir; I could not tell whether that is a Springfield or a Krag bullet.

Q. Do you know whether or not the Krag-Jørgensen bullet and the Springfield bullet weigh exactly the same?

(The question was not answered, and an informal conversation followed between members of the committee.)

Senator FORAKER. I will have to pass that for the present. I will now take up another matter connected with this report. There is one other matter that I will call the attention of the witness to and interrogate him about.

By Senator FORAKER:

Q. Please turn to page 1318 of our record here. On that page, on the lower part of it, there is what the officers making this report term a grouping of shells with reference to the guns out of which

they think they must have been fired. Have you read this report?—A. I glanced over it. I did not read it very carefully.

Q. As I understand this report, it says that these inspecting officers fired out of each one of the guns belonging to the Twenty-fifth Infantry two ball cartridges, and, as the chairman suggests, they also fired the same number of cartridges out of the guns of the Twenty-sixth Infantry; but they fired two out of each of the guns of the Twenty-fifth, and that is all that I want to call your attention to now. Then they put the end of each cartridge under a microscope, and under powerful glasses, and by a microscopic inspection determined the character, and reproduced it, of the indentation made on the head of the cartridge by the firing pin when it struck it to explode. You will find pictures intended to represent these different groups of shells, as marked in this manner, at pages 1313 and 1314. What I want to call your attention to now is the fourth group. You will find a picture of the head of the cartridge as developed under the microscope and these powerful jeweler's glasses, as I believe they said they were, at the head of page 1314. They say in respect to that group at the top of page 1319 as follows:

Group IV. Probably fired in rifle No. 46524, Company B, Twenty-fifth Infantry. Reference number of rifle and cartridge case from same, No. 126.

Now going to the bottom of that page, in Paragraph IX, they say:

IX. In the examination of the above cartridge cases it was noted that some cases had been inserted into a service rifle more than once.

Then they give in Group I three cases, in Group III three cases, of which they give the numbers, and in Group IV three cases.

Now, I call your attention to those put in Group IV, the numbers of which are 303, 304, and 306. They say with respect to these as follows:

This condition renders the orientation of the cartridge case, with respect to its position in the chamber when fired, difficult unless extractor claw marks are evident. Also this condition leaves it open to doubt whether striker imprint in the primer came from the rifle in which it was fired or from some other rifle into which the cartridge case was subsequently inserted. In Group IV there are evidences in the striker imprint of more than one striker blow, and hence little weight can be given to the identification of primer imprint markings, and the first shoulder alone can be relied upon.

What I call your attention to is their report that the cases reported on as belonging to Group IV are cases where there is a double indentation. I will ask you what that indicates, if you know?—A. It probably indicates that the firing pin has struck the primer twice.

Q. I will ask you, looking back over the history of your experience with the Springfield rifle, what the probabilities are as to when, if these shells were fired out of one of your rifles, that could have occurred; that is, the double striking before there was an explosion?—A. When we first got these rifles they were entirely coated in cosmoline, and at Niobrara at that time it was right cold and this cosmoline was like thick mucilage, and at first, before the men were familiar with taking the bolt of the rifle apart, they had a number of misfires on the target range, being caused by the cosmoline in the main-spring of the bolt.

Q. Retarding it in its work?—A. Yes, sir. When this cosmoline was removed by washing with coal oil and the bolt taken to pieces

the firing pin was plenty strong enough to explode any primer that was not defective, and after that I never saw a case of misfire.

Q. And that trouble continued with you about how long after you commenced using your guns—after you got them to working perfectly?—A. Oh, probably a week on the target range, until every man had been made to thoroughly clean his gun.

Q. During that time it was a common occurrence, was it not, for the men to have to strike the firing pin into the primer twice?—A. Yes, sir.

Q. Before it would explode?—A. It was.

Q. And after that, you say, you have no recollection of a case ever occurring?—A. No, sir.

Q. After you got that cosmoline out and got the spring to working properly and got the mechanism all oiled up it was a sure shot every time, was it not, according to your experience?—A. Yes, sir; the mainspring was an unusually strong one, and unless a primer was defective there would never be a case of misfire.

Q. If these shells were fired out of the different guns belonging to the Twenty-fifth Infantry described here, with this double indentation, where would you think they had been fired, at what place?—A. I should think on the target range at Fort Niobrara.

Q. At Niobrara?—A. That was the only place it could be.

Q. Do you think there was any gun in Company B that would require a double stroke to fire the cartridge at any time after you arrived at Fort Brown?—A. I don't believe there was, at that time.

Q. I will call your attention now to another fact recited in this report. I have already read it. It says that quite a number of these cartridges cases—nine in all, giving the numbers, three in Group I, three in Group III, and three in Group IV—bear evidences on them of having been inserted into a service rifle more than once. I will ask you what that would indicate to you?—A. Either that it had been tried in one gun, and not having been fired in that had been tried in another, or that it had been thrown back in the cartridge box and later tried, some other time, on the range.

By the CHAIRMAN:

Q. After a cartridge has been fired, what would be the effect of putting the shell in and going through the motions again; would that leave any marks upon the empty shell?—A. Yes, sir; that would probably have the same effect.

Q. Then a cartridge shell, after the cartridge had been fired, if it was put in a gun to try it, or for examination, would receive the same strokes, probably?—A. If it were put in the same gun, I should think it would, sir. If it was tried in another gun, you would probably get the effect mentioned here.

Q. One moment. If it was tried in another gun and the effect were different, then there would probably be two sets of marks on it?—A. Yes, sir; probably there would.

By Senator FORAKER:

Q. I will ask you whether or not there was any period in your experience of these guns when the same cartridges were likely to be twice inserted in the same piece or in other pieces before firing?—A. Yes, sir; on the target range two men always fire at the same firing

point, first the one on the right and then the one on the left, and frequently, when we were having this trouble with the springs, if a cartridge failed to fire in one gun it was passed over to the other man and tried in his rifle.

Q. Was it or not a common occurrence, for the reason you have mentioned or other reasons, that cartridges were twice inserted in guns before they were finally fired, at Niobrara?—A. Yes, sir; I remember of a number of cases in which this was done.

Q. Can you tell us of any other reasons that would arise for this double insertion? I will ask you, when you are on the firing range and the call to cease firing is sounded, what a man is required to do?—A. He is required to open his piece—that is, to throw back his bolt and extract any cartridges that he may have in his piece.

Q. Yes.—A. There is one more instance where this could occur—where a case of misfire could occur—and that is where the bolt is not completely closed. It is possible, sometimes, some man might not completely close his bolt, and the primer would not be right up against the firing pin. That might cause a case of misfire.

Q. You never had any experience yourself in shooting up a town, I suppose?—A. No, sir; I never did.

Q. You never helped in anything of that sort?—A. No, sir.

Q. And you have had no opportunity to make observations of how men do on such occasions, I presume? But the double insertion of the cartridge in a piece before it would be fired would hardly occur on an occasion of that kind, would it?—A. No, sir; I should think not. If a cartridge failed to fire, I should think that the man would snatch his bolt open—and that would extract the cartridge and throw it some distance—and put in a new one.

Q. Therefore this feature of these cases to which I have called your attention in this connection would indicate to you that these shells were fired at Fort Niobrara, would it not, if they belonged to any of your guns?—A. Yes, sir; it would seem so to me, sir.

Q. Yes. Now, can you tell us whether or not any exploded shells; that is, empty cases, cases or cartridges that had been exploded or fired on the target range at Fort Niobrara, were brought with B Company down to Fort Brown?—A. Yes, sir; I remember a box of such cartridges. They were brought down.

Q. A box of cases, you mean—shells, or cases as we call them here?—A. Empty shells.

Q. How did it happen that you had a box of empty shells? And in that connection state whether they were decapped or not, and explain what is meant by decapping.—A. By decapping we mean extracting the old primer. It was customary, or the regulations required, that these cartridge cases be decapped after using, and soaked in a solution of soda water, I believe, and later wiped and boxed up and sent back to the arsenal. We had not decapped ours because our decapper spindle had been broken.

Q. How many did you take with you that had not been decapped when you went to Fort Brown? State, if you know, about that.—A. I have no idea of the exact number, sir. It was a box full; I should say something over 1,000 at any rate.

Q. Do you know what was done with them when you arrived at Fort Brown?—A. I suppose they were with our various packages of

company property, the most valuable of which were stored in the company ordnance storeroom, and the rest were on the back porch of the barracks.

Q. Do you know where this particular box stood after you got to Fort Brown, for some days? Do you remember about that?—A. No, sir; I have no recollection of seeing this particular box.

Q. But you remember that some of your baggage was stacked up on the back porch?—A. Yes, sir.

Q. And that box might have been with that baggage deposited at that place, might it not?—A. Yes, sir.

(At 4 o'clock p. m. the committee adjourned until to-morrow, Thursday, March 28, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, March 28, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Bulkeley, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF SECOND LIEUT. GEORGE C. LAWRASON, U. S. ARMY—Continued.

By Senator FORAKER:

Q. Mr. Lawrason, can you state how far away from the gun, when it is fired, an ejector, as a rule, will throw the empty case?—A. I can not tell exactly, sir. I believe it would throw it about 8 feet.

Q. About 8 feet.—A. Depending upon the rapidity with which the bolt is thrown back.

Q. If a man were to stand in the same spot and fire his piece half a dozen times, would the empty cases go all to the same place, or are they thrown out in different directions, as the case may be, according to your experience and observation?—A. My experience is that they would be thrown out to the right some distance.

Q. They would be thrown out some distance?—A. Yes, sir.

Q. Where would the clips out of which the cartridges had been taken probably be found, as related to the man who held the gun and the empty cases?—A. The clips are dropped straight down and would probably be near the man's feet.

Q. If you were to find six clips and seven cases all within a space not more than 10 inches in diameter—a sort of circular space not more than 10 inches in diameter—would you think they had fallen there naturally as the cases had been fired from the gun?—A. There would be five empty cases to each clip, and this would not seem to be a natural distribution of clips and cartridges.

Q. Now, as to their being all together within this limited space I have referred to, would that be natural?—A. No, sir; it would not.

Q. Where would the clips be? Where would you expect them to be with respect to the man that held the gun?—A. At his feet, sir.

Q. A clip, when it is used, falls down at his feet, as a rule?—A. Yes, sir; right around his feet.

Q. And where would you expect the empty cases to be, with reference to the clips and the man?—A. Off to the right of the man; from 6 to 8 feet, I should think.

Q. They would not all be in exactly the same spot, would they?—A. No, sir; I believe not.

Q. They scatter more or less; that is, they do not all take the same direction when they are thrown out?—A. They would take approximately the same direction if the piece were held perfectly in the same position each time, but upon striking the ground they would probably bounce around a little.

Q. Yes; and the piece might not be held, during the firing, in precisely the same position?—A. Probably not.

Q. Does the heat from firing affect that in any way, according to your experience, or have you made any observation on that point?—A. I do not believe that the heating of the gun would have any effect on the distribution of the empty cartridge cases and clips.

Q. Had you any shotguns in your storeroom? I understood you to say something about some old shotguns.—A. Yes, sir; there were several shotguns.

Q. Do you remember how many?—A. Not exactly. I should say, in the neighborhood of three, probably.

Q. Yes.—A. There were two .22-caliber rifles—one belonging to myself and one belonging to the company.

Q. .22 caliber? What manufacture?—A. One was a Stevens, I believe, and the other a Marlin rifle.

Q. Where were they kept?—A. They were kept in the company storeroom, and I believe were in the box containing some of the rifles. There was a large box that was not full.

Q. Yes.—A. They had been shipped in this way.

Q. Did you examine to see whether or not they were all there that night?—A. No, sir; I did not count the shotguns or small rifles.

Q. Do you know whether they were there?—A. I remember seeing several shotguns and a couple of .22-caliber rifles there. I did not check them accurately.

Q. You were looking for the regular guns?—A. For the regulation rifles.

Q. For the regulation rifles?—A. Yes, sir.

Q. At Niobrara, after you got the Springfield rifles, did any of your men go hunting before you left—in July, I believe that would be? Were there any hunting expeditions at that time?—A. Men frequently went hunting from the company, but they would either take these company shotguns or the .22-caliber rifle. I believe in no case did they take a high-power rifle.

(The property book of Company B was here handed to the witness.)

Q. I asked you yesterday as to several soldiers who had belonged to your company, and to whom rifles had been issued which had been returned to the storeroom, but, if I remember correctly, I did not ask you as to Jareth Gardner. Did you have such a man in your company?—A. Jareth Gardner?

Q. Yes.—A. Yes: there was such a man. He was discharged for expiration of term of enlistment, about the time we left for Fort Brown, if I recollect correctly.

Q. Before you went to Fort Brown, anyway?—A. Well, he may have made the trip. I do not remember exactly. I know he was discharged either before we left or on the way.

Q. Did he participate in target practice at Niobrara?—A. Yes, sir; he did.

Q. I do not think I asked you about Henry Jones. Did you have a man in your company of that name?—A. Yes, sir; there was a man named Henry Jones.

Q. Do you know what became of him?—A. I believe that he accompanied the company to Brownsville.

Q. He was still in the company the night of the firing, you think?—A. Yes, sir; I think so.

Q. I think I was misled by a note that I had made. I see two guns were issued to him, which was the reason I mentioned him. What is that book which has been handed to you?—A. This is the property book of Company B, Twenty-fifth Infantry.

The CHAIRMAN. Here is a communication from General Crozier which we will have inserted in the record at this point.

Senator FORAKER. Very well; I want to examine that.

(The communication referred to is as follows:)

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ORDNANCE.
Washington, March 26, 1907.

The ADJUTANT-GENERAL UNITED STATES ARMY,
Washington, D. C.

SIR: 1. I have the honor to submit the following notes with reference to the property books of Companies B, C, and D, Twenty-fifth Infantry, received from you, and of which the Secretary of War directed me to make an examination. The notes refer to the rod bayonet rifles of the model of 1903 received by the battalion in March, 1906. Those marked with an asterisk are the ones referred to in the report of Lieutenant Hawkins of the 10th ultimo as having been identified as those in which certain cartridge cases turned over to him for examination had been fired.

B COMPANY.

No. 45683*, issued to William Blaney, quartermaster-sergeant; receipted for. This number is not on the list forwarded by the commanding officer of assigned rifles.

No. 46544, issued to George Jackson, sergeant; receipted for. This number is also shown opposite the name of Corpl. Edward L. Daniels, but crossed out and another number (43733) written in below it.

No. 11747, issued to Alexander Walker, cook; not receipted for.

No. 43374, issued to Leroy Horn, cook; not receipted for.

No. 48790, issued to Thomas H. Jones, artificer; not receipted for.

No. 42036, issued to Ernest Allison, private; not receipted for. Ernest Allison was discharged August 12, 1906, and all entries of ordnance property crossed out in red ink. This rifle is also shown in pencil as assigned to William Smith, private, and receipted for.

No. 41501, issued to Shepherd Anderson, private; not receipted for. This number and other entries of ordnance property crossed out in red ink. This rifle is also entered as assigned to Boyd Congers and receipted for by him.

No. 39714, issued to James Bailey, private; not receipted for.

No. 46502, issued to Harry Carmichael, private; not receipted for.

No. 45698, issued to John Cook, private; receipted for. All ordnance property entries shown opposite this name are crossed out in red ink.

No. 41501, issued to Boyd Congers, private; receipted for. This rifle is also shown as assigned to Private Shepherd Anderson, but that entry is crossed out in red ink.

No. 41019*, issued to Ernest English, private; receipted for. The rifle reported as assigned to Private Ernest English in the list first forwarded by

the commanding officer was No. 41009, which number was not among those issued to this company or turned in by it.

No. 46266, issued to Jarret Gardner, private; not receipted for. All entries of ordnance property opposite this name are crossed out in red ink. This rifle is reported in the lists submitted by the commanding officer as having been issued to Private Shepherd Glenn and to Private Frank Jones.

No. 45186, issued to Shepherd Glenn, private; receipted for. All entries of ordnance property opposite this name are crossed out in red ink. See preceding note.

No. 41971, issued to William Harden, private; not receipted for.

No. 35488, issued to Thomas Hines, private; not receipted for. All entries of ordnance property opposite this name, except the number of the rifle, are crossed out in red ink.

No. 41183, issued to Samuel R. Hopkins, private; receipted for. All ordnance entries opposite this name are crossed out in red ink. This rifle is also shown as assigned to Thomas J. Bracy and receipted for.

No. 45327, issued to Charles W. Johnson, private; not receipted for.

No. 41591, issued to James Johnson, private; not receipted for.

No. 46910, issued to Henry Jones, private; receipted for. The number opposite this name is crossed out in pencil and another number (45537) written in below in pencil.

No. 45697, issued to George W. Mitchell, private; not receipted for.

No. 46536, issued to Lewis C. Owens, private; not receipted for. Below Owens's name is the following entry in pencil: "Sick in hospital at Fort Bayard, N. Mex."

No. 41390, issued to Isaiah Raynor, private; not receipted for.

No. 45285, issued to Stansberry Roberts, private; receipted for. Under this name is written in pencil: "Sick in hospital; to be charged."

No. 44999, issued to William Smith, private; receipted for. Beneath the number is written in pencil the number 42036.

No. 42288*, issued to Thomas Taylor, private; receipted for.

No. 46524*, issued to Joseph L. Wilson, private; receipted for.

No. 46266, issued to Frank Jones, private; receipted for. This rifle is also shown as assigned to Private Jarret Gardner, but this entry is crossed out in red ink. It was also shown in the list forwarded by the company commander as assigned to Private Shepherd Glenn.

No. 41183, issued to Thomas J. Bracy, private; receipted for. This rifle is also shown as assigned to Private Samuel R. Hopkins, but this entry is crossed out in red ink.

No. 41796, issued to Jessie A. Jackson, private; not receipted for. This rifle is also shown as assigned to James R. Reid, sergeant. The number in the entry opposite Jackson's name is in pencil.

2. The following numbered rifles were mentioned in the report of Lieutenant Hawkins of February 16 last as having been turned in to Springfield Armory with bores foul—that is, not cleaned, or not thoroughly cleaned after firing: 46544, 45683, 45186, 45517, 48790, 41968.

Of these, No. 46544 was assigned to Sergt. George Jackson, No. 45186 was assigned to Private Shepherd Glenn, No. 48790 was assigned to Artificer Thomas H. Jones, No. 45683 was assigned to Sergt. William Blaney, while Nos. 45517 and 41968 are not assigned, according to the company property book.

C COMPANY.

No. 49731, issued to Spottswood W. Talliaferro, first sergeant, not receipted for. Noted in pencil: "Turned in." This rifle is also shown as assigned to Private Alphonso Holland and receipted for by him.

No. 52697, issued to William Burley, private, receipted for. This rifle is also shown as assigned to Lieut. James A. Higgins, but not receipted for by him.

No. 49651, issued to Joseph Carter, private, receipted for. Also shown as assigned to Sanford Murklson and receipted for.

No. 52870, issued to Joseph Edwards, private, receipted for. The note "Died" is added in blue pencil. This rifle is also shown as assigned to Louis Williams, private, and receipted for.

No. 47747, issued to William Gilyard, private, receipted for. The remark is made in ink "Transferred." This rifle is also shown as issued to and receipted for by Private Frank Bounsler.

No. 51951, issued to George W. Harris, private; receipted for. This number is shown in pencil over another partially erased number in ink, viz: 49026. No. 51951 is also shown as issued to Private John W. Lewis and receipted for.

No. 47906, issued to Owen Jackson, private; receipted for. The remark is made in blue pencil: "Discharged." This number also shown in pencil opposite the name of Private Edward Lee and receipted for, No. 55157 in ink being crossed out in pencil.

No. 40892, issued to Thomas L. Mosley, private; receipted for. Also shown opposite the name of Private Robert James, and receipted for.

No. 54086, issued to James A. Simons, private; receipted for. This rifle also shown as assigned to and receipted for by Private John T. Hawkins, but in this latter case the number is written in pencil, while below it in ink is No. 52457. This rifle is again shown as issued to and receipted for by Francis Vines.

No. 51722, issued to August Williams, private; receipted for. Also shown as issued to Robert J. Ivey, and receipted for.

3. The following numbered rifles were mentioned in the report of Lieutenant Hawkins of February 16 last as having been turned in to Springfield Armory with bores foul; that is, not cleaned or not thoroughly cleaned, after firing: 54033, 47527, 54835, 52210, 42956, 46740, 53929.

Of these—according to the company property book—No. 54033 was assigned to Private James Woodson; No. 52210 was assigned to Private Louis J. Baker; No. 46740 was assigned to Private Joseph Rogers; No. 47527 was assigned to Musician Walter Banks; No. 42956 was assigned to First Sergt. William Turner; No. 53929 was assigned to Corpl. John Young; No. 54835 was assigned to Corpl. Preston Washington.

4. The following rifles are mentioned in the report of Lieutenant Hawkins, above referred to, as having been injured as with a dull ax or hatchet, viz: 55157, 53333, 49026.

Of these, according to the company property book, No. 55157 was assigned to Private Edward Lee, but erased with pencil and No. 47906 substituted; No. 53333 was assigned to Corpl. Simon P. O'Neill, while No. 49026 does not appear of record as assigned to anyone.

D COMPANY.

No. 41124, issued to Walter Adams, sergeant; receipted for, but crossed out. Another entry shows this rifle receipted for by this man. This number is not on the list, forwarded by the company commander, of assigned rifles.

No. 41431, issued to Alexander Ash, private; receipted for, but crossed out. Same rifle shown as issued to Alexander Nicholls and receipted for.

No. 50391, issued to James Ballard, private; receipted for, but crossed out. Same number issued to James Ballard, corporal, and receipted for.^a

No. 41958, issued to Sam M. Battle, private; receipted for, but crossed out. Subsequently receipted for.

No. 42843, issued to John Butler, private; receipted for, but crossed out. Subsequently receipted for.

No. 42465, issued to Henry Barclay, private; receipted for, but crossed out. Subsequently receipted for.

No. 52260, issued to Henry T. W. Brown, private; receipted for. Another entry shows issue of same rifle to T. W. Brown and receipted for by Henry T. W. Brown (later date than first issue).

No. 51407, issued to James F. Bell, private; receipted for, but crossed out. Same gun issued to Robert L. Rogan, private, and receipted for. Entry made in pencil; name signed in ink.

No. 42049, issued to Luther Cotton, private; receipted for. In another place records show issue of same gun to David Reid, private; receipted for, but crossed out.

No. 53310, issued to Richard Crooks, private; receipted for. Same entry appears on another page; receipted for.

No. 41750, issued to George Derrett, sergeant; receipted for, but crossed out. Subsequently receipted for.

No. 49643, issued to James Duncan, cook; receipted for, but crossed out. Also reported issued to Private Albert W. Taylor and receipted for.

^a In each case by James H. Ballard.

No. 54795, issued to Henry H. Davis, private; receipted for. Subsequent entry shows this rifle issued to John Vincent, private; receipted for, but crossed out.

No. 54415, issued to Strowder Darnell, private; receipted for, but crossed out. Subsequently receipted for.

No. 42216, issued to Jacob Frazier, sergeant; receipted for. Subsequent entry of this rifle to same man, but not receipted for.

No. 49789, issued to Thomas J. Green, sergeant; receipted for, but crossed out. Subsequently receipted for.

No. 49549, issued to John Green, private; receipted for, but crossed out. Subsequently receipted for.

No. 41835, issued to James C. Gill, private; receipted for. Another entry shows same rifle issued to James H. Gill, private; not receipted for.

No. 42495, issued to Chester Garrard, private; receipted for. Subsequent entry shows issue of same rifle to Private William Pierce; receipted for, but crossed out.

No. 54789, issued to Elias Gant, private; receipted for. Another entry shows this rifle receipted for, but crossed out.

No. 42105, issued to Israel Harris, sergeant; receipted for, but crossed out. Another entry shows this rifle issued to Israel Harris, first sergeant; receipted for.

No. 54054, issued to Charles H. Hawkins, corporal; receipted for by Charles Hawkins, but crossed out. Another entry shows this rifle issued to Charles H. Hawkins, private; receipted for by Charles Hawkins.

No. 55183, issued to Alonzo Haley, private; receipted for, but crossed out. Subsequently receipted for.

No. 53281, issued to John Henry, private; receipted for. Another entry shows same rifle issued to Wade H. Wickliffe; receipted for, but crossed out.

No. 42884, issued to Joseph Jones, private; receipted for, but crossed out. Subsequently receipted for.

No. 43658, issued to Walter Johnson, private; receipted for, but crossed out. Subsequently receipted for.

No. 41759, issued to Charles Jones, private; receipted for. Subsequent entry shows this rifle issued to same man, but not receipted for.

No. 42301, issued to John R. Jones, private; receipted for, but crossed out. Subsequently receipted for.

No. 43224, issued to William R. Jones, private; receipted for, but crossed out. Subsequently receipted for.

No. 53933, issued to John A. Jackson, private; receipted for, but crossed out. Subsequently receipted for.

No. 50321, issued to William E. Jones, private; receipted for. Issue of same rifle in another entry, but not receipted for.

No. 53781, issued to Edward Jordan, private; receipted for, but crossed out. Subsequently receipted for.

No. 42347, issued to Wesley Mapp, private; receipted for, but crossed out. Subsequently receipted for.

No. 52297, issued to George W. Newton, private; receipted for, but crossed out. Subsequently receipted for by him as artificer.

No. 42504, issued to Jerry E. Reeves, sergeant; receipted for, but crossed out. Subsequently receipted for.

No. 42362, issued to Len Reeves, private; receipted for. Subsequent entry shows issue of this gun to same man, but not receipted for.

No. 43013, issued to Hoytt Robinson, musician; receipted for, but crossed out. Subsequently receipted for.

No. 52755, issued to Edward Robinson, private; receipted for, but crossed out. Subsequently receipted for.

No. 37710, issued to Zachariah Sparks, private; receipted for, but crossed out. Subsequently receipted for.

No. 41555, issued to Joseph Shanks, private; receipted for, but crossed out. Subsequently receipted for.

No. 52989, issued to Samuel E. Scott, private; receipted for, but crossed out. Subsequently receipted for.

No. 51745, issued to John Slow, private; receipted for, but crossed out. Subsequently receipted for.

No. 42856, issued to Temple Thornton, corporal; receipted for. Another entry shows this gun issued to same man, but not receipted for.

No. 42316, issued to William Van Hook, private; receipted for, but crossed out. Subsequently receipted for.

No. 49784, issued to Samuel Wheeler, corporal; receipted for, but crossed out. Subsequently receipted for.

No. 41762, issued to Winter Washington, corporal; receipted for, but crossed out. Subsequently receipted for.

No. 42547, issued to Edward Wickersham, private; receipted for, but crossed out. Subsequently receipted for.

No. 42665, issued to Robert Williams, private; receipted for. Subsequently issued to Robert Williams, cook (?), but not receipted for.

No. 53083, issued to Dorsie Willis, private; receipted for, but crossed out. Subsequently receipted for.

No. 36811, issued to Howard Smith, corporal; receipted for, but crossed out. This number does not correspond with the numbers issued to D Company.

No. 42211, issued to Taylor Stoudemire, private; receipted for, but crossed out. This number does not correspond with numbers issued to D Company.

No. 50977, issued to James Newton, private; receipted for, but crossed out. This number is not found on a correct list of the numbers issued to D Company.

5. The following numbered rifles were mentioned in the report of Lieutenant Hawkins of February 16 last as having been turned into Springfield Armory with bores foul—that is, not cleaned, or not thoroughly cleaned, after firing: 41755, 43072, 42695, 47530, 49643, 38126, 53798.

Of these—according to the company property book—No. 42695 was assigned to Cook Charles Dade; No. 49643 was assigned to Cook James Duncan; while Nos. 41755, 47530, 38126, 43072, and 53798 do not appear of record in the company property book as assigned to anyone. The books are returned herewith.

Very respectfully,

WILLIAM CROZIER,
Brigadier-General, Chief of Ordnance, U. S. Army.

WAR DEPARTMENT,
Washington, March 27, 1907.

Respectfully transmitted to the chairman Committee on Military Affairs, United States Senate.

The property books of Companies B, C, and D, Twenty-fifth Infantry, referred to within, are sent herewith, under separate cover. Inasmuch as these books are required for use with the commands to which they belong, it is requested that the books be returned to the War Department at the earliest practicable date.

ROBERT SHAW OLIVER,
Acting Secretary of War.

By Senator FORAKER:

Q. Is that the property book of Company B?—A. Yes, sir; this is the property book of Company B.

Q. Does that show the assignments of the new Springfield rifles to the men of your company?—A. Yes, sir; it should show this.

Q. When was that account opened, and at what place?—A. It was opened at Fort Niobrara, Nebr.

Q. Who was commanding officer of Company B at the time that was opened?—A. You asked me what time this was opened?

Q. Yes.—A. Some time early in April; I am not sure of the date. It does not seem to appear on here.

Q. That was 1906?—A. 1906.

Q. Who was the company commander at that time?—A. Capt. Amos B. Shattuck, Twenty-fifth Infantry.

Q. Now I will ask you to look through that book and find certain rifles that have been mentioned in the report that has been made by the experts. One is No. 45683. See if you can find that number.—A. If you could give me the name of the man to whom this rifle was issued, it would aid me materially in this examination.

Q. The man was Sergt. William Blaney.—A. The property book shows that rifle No. 45683 was issued to Sergt. William Blaney.

Q. What further does it show with respect to that rifle?—A. (After further examination of book.) The initials "C. C. K." of Capt. Clifton C. Kinney, of the Twenty-fifth Infantry, written across this number, would indicate that it was turned in.

Q. Can you tell us where Sergeant Blaney was at the time that rifle was issued to him?—A. At the time the rifle was issued to him he was at Fort Niobrara, Nebr.

Q. The initials "C. C. K." which you refer to, were put on there at Fort Reno, were they not?—A. I believe they were.

Q. When the rifle was finally turned over, after the discharge of the man?—A. Yes, sir.

Q. Can you tell where Sergeant Blaney was at the time your battalion went to Fort Brown?—A. At the time the battalion went to Fort Brown Sergeant Blaney was on furlough, I believe.

Q. State where his gun was. What was done with it when he went on furlough?—A. When he went on furlough his gun was turned in to the quartermaster-sergeant and placed in the company ordnance storeroom.

Q. State what was done with that gun and other guns so in the custody of the quartermaster-sergeant of the company when the battalion went to Fort Brown.—A. They were packed in a box or arm chest and shipped with the rest of the company property to Fort Brown.

Q. Was that one of the rifles that was shipped in the way you described yesterday, in arm chests?—A. I believe it was, sir.

Q. Can there be any doubt about that at all, Mr. Lawrason?—A. There is no doubt in my mind, sir. It is possible, but not probable, that this gun might have been taken by some one else and no notation made on this book about it.

Q. That is a mere possibility?—A. Yes, sir.

Q. But it would be quite improbable for such a thing to occur?—A. Yes, sir.

Q. It was turned in when Sergeant Blaney left on furlough?—A. Yes, sir.

Q. And should have been in the custody of the quartermaster-sergeant?—A. Yes, sir.

Q. At the time when you boxed up your surplus arms to take them to Fort Brown?—A. Yes, sir.

Q. And if it was there it would be in the arm chest as one of those rifles?—A. Yes, sir.

Q. Who would know positively about that?—A. The quartermaster-sergeant would know positively about it.

Q. You did not examine the numbers on the guns when they were put in the arm chests at Fort Niobrara?—A. No, sir.

Q. But you do know that all of your surplus guns were put into these arm chests?—A. Yes, sir.

Q. Yes; and you know, as I understood you yesterday, that all those guns that were put into these arm chests at Fort Niobrara remained there until after the firing, when you found the boxes intact?—A. Yes, sir; to the best of my knowledge and belief.

Q. Well, if that gun was in the arm chest the night of August 13, 1906, do you know of any way in which it could have been fired in Brownsville that night?—A. No, sir; I do not.

Q. And if shells are produced here that it is claimed were fired out of that gun, they must have been fired at some other time?—A. It would seem so to me, sir.

Q. Was there any time when you were in Brownsville when that gun was out of that box, until after the firing on the night of the 13th, of which you have any knowledge?—A. I believe not, sir.

Q. I wish you would look at No. 42288, Thomas Taylor, and see whether or not that is the number of the gun that was assigned to him?—A. (After examining book.) No. 42288 was assigned to Thomas Taylor.

Q. And was in his hands the night of August 13, so far as that book discloses?—A. Yes, sir.

Q. And you have no reason to doubt the accuracy of the book in that respect, have you?—A. No, sir.

Q. Now, I wish you would turn to the name of Ernest English, and tell us what gun was assigned to him. There is some confusion in this report as to that number. I would like to get it accurately from the book, what rifle was assigned to him.—A. (After examination.) No. 41019.

Q. So that if he is put down in this report as having received No. 41009, that is a mistake; it should be No. 41019, should it not?—A. It is probably a mistake caused by the initials of Captain Kinney written across the number.

Q. What rifle was assigned to, and in the hands of, Private Joseph L. Wilson the night of August 13, 1906, so far as that record discloses?—A. Rifle No. 46524.

Q. Then as to English, Wilson, and Thomas Taylor, that record corresponds with what we have in this official report, except that No. 41009 should be No. 41019?—A. Yes, sir.

Senator FORAKER. Now, there is no dispute about that. There is accuracy in all other respects. Now, I observe, Senator Warner, that on page 1319 of our record there is given, at the top of the page, what is called by the experts "Group IV," of shells, and they say there:

Group IV. Probably fired in rifle No. 46524, Company B, Twenty-fifth Infantry. Reference number of rifle and cartridge case from same, No. 126.

Q. That gun, you have just testified, was in the hands of Joseph L. Wilson that night?—A. Yes, sir.

Q. Now, under Paragraph VIII, on page 1319, it is stated:

VIII. The marks on the cartridge cases of Group IV, by which they were grouped and identified with rifle No. 41390, are as follows:

Q. Now, inasmuch as there is a different number given here from that given above as to the rifle identified with the fourth group of shells, I will ask you to turn to the property book and tell me in whose name rifle No. 41390 was that night, so far as that book discloses? I will ask you to look, to save time, at the name of Isaiah Raynor?—A. (After examination of book). Isaiah Raynor is shown by this book to have been issued rifle No. 41390.

Q. So that whatever rifle it is that the experts intend to identify with the fourth group of shells, one was in the hands of Raynor and the other was in the hands of Wilson?—A. Yes, sir.

Q. This was in the hands of Raynor, as I understand?—A. Yes, sir; this rifle.

Q. That night. The report of the experts further says that there were six rifles in Company B, of which they give the numbers, which they found when they examined them to be not in a clean condition. The report as to these rifles is as follows: As to rifle 46544, they say, "Foul bore; had been fired and not cleaned." Then as to rifle 45186 they have out to the right the abbreviation "Do.," which I assume stands for "ditto," and I understand that to mean "the same." There are several spaces intervening, but I suppose that is what is meant. There is the same mark as to rifle No. 48792 and as to 45517. As to rifle 45683 they say, "Foul bore; had been fired and not fully cleaned." And then as to No. 41968 they say, "Foul bore; had been fired and not cleaned." Now, can you account for these rifles being found in that condition? I will ask you to state first who had rifle 45517 that night?—A. That was the number of my rifle, and it was in the box in the storehouse that night.

Q. That is the same rifle you testified about yesterday?—A. Yes, sir.

Q. You got the number of that rifle from Lieutenant Hawkins by telegraphing him for it? That was your own rifle which you used in target firing at Fort Niobrara, was it?—A. Yes, sir.

Q. Who cleaned your rifle for you?—A. A soldier by the name of Samuel Hopkins.

Q. State whether or not the rifle was fired at all after you left Fort Niobrara.—A. No, sir; it was not fired after the completion of target practice.

Q. I will ask you to tell me, if you can, who had No. 48790? I call your attention, in answering that question, to the name of Thomas H. Jones, the company artificer. What entry do you find opposite his name?—A. I find that No. 48790 was originally issued to Artificer Jones.

Q. And is there another number there also?—A. There appears, below this, No. 39919.

Q. What do you infer from the fact that there are two numbers there?—A. I infer from that that Artificer Jones changed his rifle. I might add in that connection that I remember the incident. He being the best rifle shot in the company, I wished him to have a good rifle, that he might compete in the rifle competition in the department, and had allowed him to change the rifle that had been originally issued to him for one that he liked better.

Q. And when that exchange was made the rifle that was first issued to him was turned in to the quartermaster-sergeant?—A. Yes, sir.

Q. And was boxed up when you left Fort Niobrara with the other guns?—A. Yes, sir.

Q. And was in this arm chest you testified about?—A. I believe so, sir.

Q. Now, I wish you would tell me what the property book shows as to rifle No. 45186. I refer you to the name of Shepherd Glenn with respect to that.—A. This rifle, as shown by the property book, was issued to Private Shepherd Glenn, and the red lines drawn through it would indicate that this rifle was turned in.

Q. Can you tell us what became of Shepherd Glenn, and where he turned his rifle in, and when he turned it in? You mean turned in to the quartermaster-sergeant?—A. To the quartermaster-sergeant?

Q. Yes.—A. It was probably turned in at Fort Reno, Okla. There is an entry under his name, in red ink, as follows: "Charged on final statements, November 2, 1906."

Q. That may be some other item charged to him, may it not?—A. That is not the rifle. That refers to card holders and pillowcases.

Q. Other things charged to him?—A. Yes, sir; but that shows that he was discharged and his account closed at that time.

Q. Yes. Do you know whether at Fort Reno, after you left Fort Brown, there was any firing or not of these guns in your company?—A. I did not catch your question.

Q. Was there any target practice at Fort Reno?—A. At Fort Reno there was; yes, sir.

Q. Before I take that up I will ask you now to look at the name of George Jackson as to No. 46544.

Senator FRAZIER. Will you allow me to ask him a question just there?

Senator FORAKER. Certainly.

By Senator FRAZIER:

Q. You say there was target practice at Fort Reno. Do you mean after you went to Fort Reno from Fort Brown?—A. Yes, sir.

Q. In 1906?—A. Yes, sir.

By Senator FORAKER:

Q. This was the competitive target practice, as I understand it, at Fort Reno?—A. Yes, sir; and also what is called supplementary target season.

Q. I will come back to that in a moment; but first I want to identify all these guns. Look at the name of George Jackson and see whether gun No. 46544 was issued to him.—A. (After examination.) George Jackson was issued, according to this, rifle No. 46544.

Q. Does that indicate what became of the rifle?—A. No, sir; it does not.

Q. I will ask you if George Jackson was not one of the twelve men of the battalion who were put under arrest at Fort Brown just before you left there and who were placed in confinement at Fort Sam Houston, being taken off the train at that point, when you were on your way to El Reno?—A. Yes, sir; he was.

Q. What became of his gun?—A. His gun was turned in to the quartermaster-sergeant at the time that he was placed in arrest at Brownsville, I believe.

Q. And his gun was in the storeroom from that time on, was it?—A. Yes, sir; I believe it was.

Q. That is, except as it may have been assigned to somebody else later, I mean?—A. Yes, sir.

Q. No. 41968; can you find that number on the book as having been assigned to anybody? I do not know how to avoid having the witness look all through the numbers. I have looked through the numbers, and it is not marked as assigned to anybody.

Senator FRAZIER. What is the number?

Senator FORAKER. No. 41968. It will not take him but a minute to look through.

By Senator FORAKER:

Q. You do not find that number, do you?—A. (After examination.) No, sir.

Q. That indicates, not finding the number, that the rifle was not assigned to any man?—A. Yes, sir; this would indicate that the rifle was never assigned to anyone.

Q. But it does not indicate, does it, that the rifle may not have been used by some one? I will ask you if it be not true that Captain Shattuck used a rifle on the target range at Fort Niobrara which does not appear to have been assigned to him on the property book?—A. I believe Captain Shattuck used a rifle on the range.

Q. You have heard him say he did, have you not?—A. I am not positive of this, sir, but it would not appear on this book.

Q. What is the custom when an officer takes a rifle for use on the target range? First, let me ask you, are you required to do a certain amount of target practice; are commissioned officers as well as enlisted men required to do a certain amount of target practice?—A. Yes, sir; all officers with less than fifteen years' service are required to take the regular target course.

Q. You had, for instance, No. 45517?—A. Yes, sir.

Q. That does not appear on the property book as having been issued to you at all, does it?—A. No, sir; it does not.

Q. How was the transaction of giving you that gun and of returning it carried out?—A. I made out a memorandum receipt and signed same and gave it to the quartermaster-sergeant, and when I returned the gun at the close of the season I tore up that memorandum receipt.

Q. If Captain Shattuck had a gun, it would have been done in the same way?—A. In the same manner, sir.

Q. At Fort Reno, after you got back there from Fort Brown, state whether or not other officers of your company had guns and used them on the target range. I will ask you about Captain Kinney, for instance.—A. I was not present with the company during the supplementary target practice. I was on leave, so that I can not state as to that.

Q. Do you know as to Lieutenant Higgins?—A. No, sir; I do not.

Q. Well, if Captain Kinney and Lieutenant Higgins and others used guns at that time, they must have been issued to them out of the storeroom, must they not?—A. Yes, sir.

Q. And the property book, according to your practice, does not show what guns were issued?—A. No, sir.

Q. Can you tell us how these guns, so far as you know, came to be found foul when they were sent to the Springfield Arsenal a few months ago?—A. If these guns were among those that were packed in the company's storeroom, most of those guns had been used on target range by officers, and in the case of Jones by an enlisted man, and

by several enlisted men whom we have mentioned, such as Owens, who was away sick, and men on furlough during target practice, and these rifles would probably not be cleaned as thoroughly on being turned in and put in this box, where they would probably have oil put on them, as they would if the men kept them in their possession, to pass various inspections with.

Q. In other words, as to all rifles that were in the box that night of this firing, they had not been used and could not have been, after you left Fort Niobrara, as I understand you?—A. No, sir; I believe not.

Q. And as to the others, two or three of them, whichever they are, there was firing at Fort Reno of these guns issued out of these arm chests by these officers and by a number of men also?—A. Yes, sir.

Q. Engaged in firing?—A. Yes, sir.

Q. So that there was a general opportunity for the firing of the guns and for the condition into which they came when they were examined at the arsenal? Now—

Senator WARNER. He has not answered that. You have asked him a question.

(The question was repeated by the stenographer.)

A. Yes, sir.

By Senator FORAKER:

Q. At Fort Reno?—A. Yes, sir.

Q. Does the fact that some of these guns were found with foul bores and in such condition as to indicate that they had been fired and not cleaned change your opinion as to the result of the inspection which you made the morning after the firing, when, as you told us yesterday, you found them all free from powder stains and indications of having been fired?—A. No, sir; it does not change my opinion.

Q. Some of the guns that were assigned do not seem, according to the property book, to have been receipted for by the men to whom they were assigned. What does that indicate?—A. Not to have been receipted for?

Q. I say some of the guns that were assigned, as shown by the property book, do not seem to have been receipted for by the men. Please look at the book and you will see what I mean. How is that to be accounted for?—A. I would like to see the book before I answer that.

Q. Certainly.—A. (After examination of book.) Why, these receipts should have been signed, it seems to me, and their not being signed indicates on the book that they did not receive these rifles.

Q. But do you know, as a matter of fact, that each of these men, where there is a rifle marked assigned to him, in effect had a rifle?—A. Yes, sir; I know that—

Q. Notwithstanding the fact that his receipt is not there?—A. I know that these men had rifles.

Q. Yes.—A. And that is probably an omission on the part of the quartermaster-sergeant.

By Senator WARNER:

Q. It indicates a careless way of keeping books, does it not?—A. I am not familiar with this record, but it would appear so to me, sir.

By the CHAIRMAN:

Q. Whose duty was it to keep that book?—A. It was the duty of the quartermaster-sergeant.

Q. Who was the quartermaster-sergeant at the time these dates were entered?—A. At the time these dates were entered, sir?

Q. Yes; at the time those receipts should have been signed?—A. I believe Sergt. William Blaney was, at that time, quartermaster-sergeant.

By Senator FORAKER:

Q. I will ask you, Lieutenant Lawrason, if it is not a fact within your knowledge, refreshing your recollection about it, that when your rifles were issued at Fort Niobrara each man was given a rifle according to number and charged with it, and the quartermaster-sergeant was instructed to call the men in from time to time and take their receipts on the property book?—A. Captain Shattuck was in command of the company at this time.

Q. He would know about that?—A. He would know about that, sir.

Q. You do not know this of your own personal knowledge?—A. No, sir; I do not.

Q. Sergeant Blaney was then quartermaster-sergeant of the company, and it was his duty to take the receipts, was it not?—A. Yes, sir.

Q. Shortly after that he left on furlough?—A. Yes, sir.

Q. He left on furlough because his term of enlistment had expired and he had been discharged and reenlisted, did he not?—A. Yes, sir.

Q. And then it was after that that Sergeant McCurdy became quartermaster-sergeant?—A. Yes, sir.

Senator FORAKER. That is all that I will ask him now.

By Senator WARNER:

Q. Lieutenant, when did you last see this property book before this morning?—A. Sometime in November, I believe, sir, of 1906.

Q. You had not seen it before since you have been here?—A. No, sir.

Q. As I understand from your evidence, whatever period that was during the shooting when you awoke there was sharp shooting going on?—A. Yes, sir.

Q. And whether you heard the first call to arms or not you would not pretend to say?—A. No, sir.

Q. And that call to arms you heard just as you got down from the second story of your quarters, before you got out on the parade ground?—A. Yes, sir.

Q. The character of that shooting was what?—A. It seemed to me that high-power rifles were being fired, sir.

Q. High-power rifles?—A. Yes, sir.

Q. You have heard shooting on target practice upon the range?—A. Yes, sir; I have.

Q. You never have been engaged in battle?—A. No, sir.

Q. Was the sound of those guns similar to that you heard in target practice?—A. Yes, sir. I believe the reports of all high-power rifles are very much the same. I would not undertake to differentiate.

Q. My question was a simple one, whether, in your judgment, it

was the same as that you heard in the rifle practice?—A. Yes, sir; it was the same.

Q. And am I correct as to the other part of your testimony, that when you got to your company the firing had ceased?—A. I heard no firing after reaching my company. I do not know whether it had ceased or not, sir.

Q. But so far as you know, it had ceased; you heard no more?—A. I heard no more, sir.

Q. And when you got to your company it was in very considerable confusion?—A. Yes, sir; it was.

Q. Some of the men were down there, then, without their guns?—One or two, I believe, had come down without their guns, sir.

Q. A great many of them without ammunition; was not that a fact?—A. Yes, sir.

Q. And those that had not guns you sent back?—A. A noncommissioned officer sent them back; I believe it was Sergeant McCurdy.

Q. And they fell in straggling, did they not, from that on, in this confusion?—A. Yes, sir.

Q. And the roll was called by Mingo Sanders?—A. Yes, sir.

Q. Had Mingo Sanders got to the company before you got there?—A. No, sir; he had not.

Q. How many minutes after you got there was it before Mingo Sanders got to the company?—A. I believe about one minute elapsed.

Q. That was after you got there?—A. Yes, sir; before the first sergeant arrived.

Q. I do not want to be exact to the second, but give me the approximate time.—A. Yes, sir; that is approximate.

Q. And then the roll was called?—A. Yes, sir.

Q. You would not attempt to say who was in the line when the roll was called, nor who fell in upon the left of the line after you commenced calling the roll, would you, only, as you have stated, by hearing the response to the name?—A. No, sir; I could not recognize the men in the light.

Q. If "John Jones" was called, the response would be "Here," would it not?—A. Yes, sir.

Q. That would be all?—A. No, sir; he would bring his rifle to the order from the right shoulder arms.

Q. I know; but that would be the only response he would make?—A. Yes, sir; that would be the only response he would make.

Q. You would not name any soldier you saw there at that time?—A. Besides the first sergeant, I would not, sir.

Q. Now, Lieutenant, that we may get an idea, where did Mingo Sanders sleep?—A. He slept in a building set apart for the occupation of noncommissioned officers, in the northeast corner of the post.

Q. We have the guardhouse marked there on the map, as you will see, marked No. 37.—A. Yes, sir.

Q. Where were Mingo Sanders's quarters with reference to that? Just point to it on the map.—A. No. 41 on that map.

Q. No. 41. Those were the quarters occupied by Mingo Sanders?—A. I believe so; yes, sir.

Q. That was how many yards from barracks B?—A. Why, approximately 250, I should think, sir, or 300 yards. I would call it 300 yards, sir.

Q. And the firing had ceased how long before Mingo Sanders got to the company?—A. I don't know that the firing had ceased at all before he got to the company.

Q. You heard no more firing after you got to the company?—A. No, sir; I heard no more firing after I reached the company.

Q. And Mingo Sanders got to the company at least a minute after you got there?—A. Yes, sir.

Q. Did you hear any firing after he got there?—A. No, sir; I did not.

Q. Then, as far as you know, the firing had ceased?—A. As far as I know, sir, the firing had ceased.

Q. The barracks has a hall through the center downstairs, has it not?—A. Why, there is a way of going through. It is not a straight hall, as I recollect it. It is one or two rooms opening into each other.

Q. There is what you call a back stairway and a front stairway leading up to the quarters occupied by the soldiers, is there not?—A. Yes, sir.

Q. And there is also a door leading out from the back of the barracks toward the wall back of the garrison?—A. Yes, sir.

Q. And a door nearly opposite the front of the barracks?—A. Yes, sir.

Q. So that persons could come in that back door and join the company, could they not?—A. It would be possible for them to do so; yes, sir.

Q. Possible? What do you mean by "possible?" Would it not be probable that they could do that—just as probable as though they had come down the back stairway and joined?

(At the request of the witness the preceding testimony was read by the stenographer, as follows:)

Q. So that persons could come in that back door and join the company, could they not?—A. It would be possible for them to do so; yes, sir.

Q. Possible? What do you mean by "possible?" Would it not be probable that they could do that—just as probable as though they had come down the back stairway and joined?

A. Well, sir, I don't know anything about the probabilities. There was a means of getting from the rear porch to the front porch on the lower floor and also on the upper floor.

Q. Nothing to prevent it?—A. Nothing to prevent it.

Q. And if they had come in there you would not have known whether they came from upstairs or came in the back door?—A. No, sir; I would not.

Q. Nor would you have known in that confusion whether they had come around, in the interval, between barracks B and C on the left?—A. No, sir; they might have done that without being detected by me.

Q. As to this firing, did you form an idea of the number of men engaged in it?—A. It seemed to me that the shots were fired from possibly half a dozen to 10 rifles. I could not say accurately as to that.

Q. No; but that is your best judgment?—A. Yes, sir; that is my best judgment.

Q. You knew in the evening of the order being issued, did you not,

for all the men to be in quarters before 8 o'clock and canceling all passes?—A. Yes, sir; I did.

Q. Were you there when the patrol was sent out?—A. I was not present at the company; no, sir.

Q. Did you see any of them—the patrol?—A. No, sir; I recollect seeing no patrol.

Q. You were familiar with the beats of the sentries there on post, ordinarily, were you not?—A. Yes, sir.

Q. You had been on guard duty?—A. Yes, sir; I had.

Q. You had been officer of the day, I assume, while you were there?—A. Yes, sir.

Q. Sentry No. 1 was posted at the guardhouse, was he not?—A. He was, sir.

Q. And where was sentry No. 2 posted?—A. I believe the post of No. 2 extended around the four barrack buildings occupied by the men.

Q. There were only three barracks occupied by the men when you were there, but it included—A. It included the vacant barracks.

Q. No. 36, as we are calling it?—A. Yes, sir; marked No. 36 on that map.

Q. Do you happen to know, Lieutenant, the length of one of those barracks?—A. About 120 feet, I believe, sir.

Q. And the interval between the barracks?—A. I believe that was about 50 feet.

Q. There are three intervals, then. Four barracks would make three intervals?—A. Yes, sir.

Q. One hundred and fifty feet; and four barracks, you say?—A. Four barracks, which would make 480 feet; a little over 600 feet, the whole length.

Q. We will not attempt to be exact, Lieutenant. It would be between 600 and 700 feet?—A. Yes, sir.

Q. So that his beat when going around would be somewhere from 1,200 to 1,400 feet?

Senator LODGE. About 1,400 feet, without counting the space at the ends—about 1,500 feet; 300 yards.

The WITNESS. Yes, sir; that would be the length of his beat.

Senator WARNER. Yes. Now, what was the occasion of sending the patrol out on the night of August 13?

The WITNESS. It had been reported to the commanding officer, Major Penrose, that a soldier had assaulted a woman in town.

Q. A Mrs. Evans?—A. A Mrs. Evans, I believe, sir.

Q. Yes.—A. And he thought that friction might occur between the soldiers and the civilians if the soldiers were allowed to go around town promiscuously that evening.

Q. And they were to be in at 8 o'clock?—A. At 8 o'clock all soldiers were to be in.

Q. Prior to that time the check call was 11 o'clock, was it not, to see that they were all in?—A. Yes, sir. There was check taken at 11.

Q. Eleven o'clock, and that was the hour they were all expected to be in barracks, excepting those who might be out on pass?—A. On pass; yes, sir.

Q. From your familiarity with this round of this sentry, of 1,400 feet there, would it have been any trouble for parties to have gone

from the barracks out into the town without being seen by the sentry?—A. I believe not, if they had waited until he had got away from them on his beat.

Q. As to the character of that night, it was a dark night, was it not?—A. Yes, sir; it was a starlight night; no moon.

Q. Who was it came to call you, Private Conn?—A. Private George Conn, of Company B.

Q. And he was nearly upon you before you saw him?—A. Yes, sir; he was. I ran past him, I believe, in the dark.

Q. It was that dark that night?—A. Yes, sir.

Q. A great many of these men came down without their ammunition?—A. Yes, sir; a number of them.

Q. About what proportion of the men?—A. I am not positive, sir. I remember several that came down without any. I should put it at about a dozen or possibly more.

Q. I do not know whether I am correct or not, but from looking over your testimony before the court-martial I gathered that some one—you or some one—testified that most of the men were there without their ammunition. Do not take it, Lieutenant, that I say you said it. I am giving you my remembrance now.—A. Yes, sir. I do not recollect testifying this. It is my impression at the present moment that about a dozen, possibly about a third or a fourth, were without their ammunition. Of course I can only guess at this.

Q. Did that add to the confusion?—A. Yes, sir. When I reached the company those that had no ammunition were trying to borrow from those that had.

Q. And what kind of ammunition was your company armed with then?—A. With the regular steel-jacketed ball ammunition.

Q. Do you remember any one of the soldiers who came down without his ammunition—his name?—A. No, sir; I couldn't be positive of the name of any one who came down without ammunition.

Q. Was not that a matter that would have attracted your attention, Lieutenant?—A. Ordinarily, sir, I believe it would. But there were a great many things happening at this time in the company, and I do not remember the name of any particular man who was without ammunition.

Q. What do you mean, so that we will get a full statement of it, Lieutenant, by saying that there were a great many things happening at this time?—A. I mean that I was excited, and most of the men in the company were excited, and I was pretty busy getting these men into shape, making them stand up in line.

Q. You never had been in action?—A. No, sir; I never had.

Q. And so that all tended to the confusion?—A. Yes, sir.

Q. What else do you refer to when you say a great many things were happening?—A. Well, the company was in confusion, as I stated before. That is what I meant by saying a good many things were happening. The company was in confusion, and I had been gotten out of bed in the middle of the night by firing, which I believed to be upon the post. I believe most of the men in the company thought the same thing, and I myself was excited, and the men of the company were certainly excited and in disorder.

Q. You say that you thought the post was being fired upon, and a great many of the men in the company believed the same thing.

Did you talk with any of the men about that?—A. I think I talked with all of them, sir.

Q. That night?—A. No, sir; not that night.

Q. We were referring to the excitement and the confusion at that time.—A. Yes, sir.

Q. You did not talk with any of them at that time?—A. I did not ask their opinion as to the firing at that time, sir.

Q. I might as well mention this now, as you say you talked with all of them afterwards. You heard no bullets as you were going across the parade ground?—A. No, sir; I heard no bullets.

Q. To freshen your memory, on page 487 of your testimony given on the 22d day of February at San Antonio, Tex., in the proceedings of the court-martial of Major Penrose, I find this question and answer:

Q. Did you hear any spoken words as the men were falling in?—A. There was some conversation about getting ammunition. Most of the men had come down without their guard cartridges, which are kept in their McKeever cartridge boxes, and those men without ammunition were trying to borrow from those that had it. This caused some talk. I can remember no other conversation.

I read that to you so as to refresh your memory.—A. Yes, sir.

Q. What is your judgment now? Did most of them come down without their ammunition?—A. At the time it was simply an estimate, and I can do no more than estimate now. I believe possibly as many as half of them, on thinking it over now, were without ammunition that night.

Q. This testimony that I have read to you—this statement that I have read to you—that was the statement, as you remember, which you made before the court-martial?—A. Yes, sir; I believe that to be correct, sir.

Q. At the request of Senator Bulkeley, I will ask you how many men should have been in the ranks when the roll was called?—A. There should have been in the neighborhood of 41 or 42 men, I believe.

Q. Did you count them?—A. No, sir; I listened to the roll call.

Q. That is not what I am asking you. But you did not count them?—A. No, sir.

Q. Did you have another roll call that night?—A. I had another roll call; yes, sir.

Q. Where was that?—A. That was held before the company was dismissed.

Q. What was the purpose of that roll call?—A. I was ordered, before dismissing my company, to verify the company and the rifles, and therefore I had the roll called before they were dismissed.

Q. That was unusual, was it not?—A. Well, sir, I think the whole proceeding that night was unusual.

Q. I simply asked you whether that roll call was unusual?—A. As a part of the occurrences that night; yes, sir; it was.

Q. Now, you say you thought that the barracks was being fired upon?—A. Yes, sir; I did.

Q. You learned that night, did you not, that Mayor Combe had come to the fort and reported to Major Penrose as to what he thought of the occurrence?—A. Yes, sir; I heard him report.

Q. What was his report?—A. I can not repeat his conversation word for word, but the impression that he made on me was that he

believed and accused soldiers—members of the Twenty-fifth Infantry—of having fired on the town of Brownsville and done some damage down there, and killed a man and wounded another and killed a horse. I think that was what he reported, sir.

Q. When was that, with reference to the time—it is in evidence, and I will not go into that—that Captain Lyon's company was sent out into the town?—A. That was upon the return of Captain Lyon's company. Mayor Combe accompanied Captain Lyon back.

Q. That is what I thought. It was at that time that he made the report?—A. Yes, sir.

Q. Was Captain Lyon also present?—A. He was also present, I believe, sir.

Q. That was before you had this second roll call?—A. Yes, sir; it was.

Q. Did you have an inspection of the ammunition when you made that second roll call?—A. No, sir; I did not.

Q. Did you have an inspection of the ammunition at all that night?—A. No, sir; I did not.

Q. And those men who came down without ammunition, did you send them back for their ammunition?—A. A great many of them were sent back to get their ammunition, and others were supplied from the case which was brought out and opened. I did not wish to break up the company formation and waste time, and I thought I could save time by opening a fresh case and issuing the ammunition on the ground.

Q. Instead of sending them upstairs?—A. Yes, sir; instead of sending them groping in the dark in their quarters for their boxes.

Q. Returning to your statement about the barracks being fired upon, the next morning you made an examination, did you not, of the barracks?—A. Yes, sir; I did.

Q. For what purpose?—A. To see if they bore any bullet marks.

Q. Did you find any?—A. No, sir; I found none.

Q. Who aided you in making that examination?—A. I believe my first sergeant accompanied me and the noncommissioned officer in charge of quarters.

Q. That is Mingo Sanders?—A. The first sergeant.

Q. He accompanied you?—A. Yes, sir.

Q. And the officer in charge of quarters?—A. The noncommissioned officer in charge of quarters; I am not positive, but I believe that he went with me.

Q. But Mingo Sanders went with you?—A. I believe so; yes, sir.

Q. What examination did you make, Lieutenant?—A. I examined the walls—the outer walls of the barracks and the walls in the squad room, upstairs.

Q. That is, you examined the exterior of the barracks?—A. Yes, sir.

Q. That is towards the town?—A. Yes, sir; and the interior of the upper squad room.

Q. And the interior; yes. What other examination did you make?—A. That was the only examination that I made, to see if the barracks had received any marks from bullets.

Q. Did you still remain of the opinion that the barracks had been fired upon?—A. I decided that the barracks had not been hit, sir.

Q. Do you mean to have the committee understand by that that

they fired upon the barracks and did not hit them; any of them?—A. Why, I decided then that if they had fired that they had fired over the barracks.

Q. And do you desire the committee to understand that it was your conclusion after that examination that the citizens, or some persons other than the soldiers, had come there and fired—discharged their pieces and fired—over the barracks?—A. No, sir; at that time I came to the conclusion that the soldiers had done the shooting, and not the civilians.

Q. Yes. Why did you not answer that before, Lieutenant?—A. Because I do not think that was the question asked, sir.

Q. Oh, yes. Well, possibly not. I do not mean to infer that you were dodging the question at all, Lieutenant. I ought not to have asked that.—A. Yes, sir.

Q. Mingo Sanders went with you that morning?—A. I believe he went with me.

Q. What, if anything, did he tell you about the occurrence of the night before?—A. I don't recollect at that time that he told me anything about the occurrence that happened the night before.

Q. Did he at any time?—A. I instructed him to endeavor by all means in his power to find out if the soldiers had done the shooting, and, if so, which ones had done it, and I consulted with him from time to time on the subject, and he always told me that he had made no progress, had not found out anything about it whatever.

Q. He being your first sergeant of course he was the man in the company that you would go to?—A. Yes, sir; he was.

Q. And being an old soldier, having a great many years of service—A. I relied on him a great deal.

Q. What information, if any, did he ever impart to you with reference to the shooting that night?—A. He has never given me any information with regard to the shooting. Whenever I have questioned him on the subject I have been convinced that he has found out and knew nothing whatever about it.

Q. In the talk with Mingo Sanders and other members of your company did you, as far as you were concerned, in any way restrain them from giving you information?—A. No, sir; I encouraged them in all the ways that I could. All conversations that I had with members of the company on the subject were alone, in the orderly room, with the doors shut, and I used every method I could think of to find out what each man knew and make him try to find out something.

Q. Then you encouraged rather than discouraged the making of statements?—A. Yes, sir.

Q. Were you present when any of the other officers made an investigation?—A. No, sir; I believe not.

Q. Now, in these talks with Mingo Sanders, is it or not true that he told you he did not know anything about the shooting—who was doing it?—A. Yes; he did.

Q. Did he tell you anything about what he heard on the night of the shooting, if anything?—A. I do not recollect his ever telling me anything about what he heard on this night there.

Q. And you had frequent conversations with him daily, I suppose, about the matter?—A. I had frequent conversations with him, sir; *at first almost daily.*

Q. When your men were deployed as skirmishers in the rear of the barracks—as I understand, you moved them around there nearly immediately after the completion of the roll call?—A. Yes; I did.

Q. And you stationed them, I assume, right up to the wall?—A. Right up against the wall.

Q. And they would be stationed, then, there between the wall and the company sink of the building, between the wall and the oil house of the building, and between the wall and the wood shed of the barracks?—A. They would be stationed between the wall and the sink. I think there were two men stationed behind there, but there were no men in the rear of any other building—that is, between the wall and any other building.

Q. Why was that?—A. It was my recollection—I have not looked at the map—that the oil house, for instance, was right up against the wall. It does not appear there on the map, but it was a very small building.

Q. Well, it is my misfortune in speaking of the rear of the building. I speak of the rear of the building as that part fronting the town, and that you call the front of the building, I suppose.—A. Yes. What I mean is there was a space between the wall and the company sink.

Q. Was there not a space between the wood shed and the wall?—A. I don't recollect any such space, sir. I believe the wood shed was right up against the wall, although I am not sure. I recollect that there were no men between any other building and the wall besides those that were between the wall and the sink. These are very small buildings.

Q. When you speak of very small buildings, what size was the wood shed?—A. I don't recollect exactly; I suppose probably 12 feet front; just a shed up against the wall, as I recollect it, sir.

Q. Right up against the wall?—A. Yes, sir.

Q. Then you did not put any men there in rear or front of the wood shed at all?—A. No, sir.

Q. Nor in rear or front of the oil house?—A. No, sir.

Q. And your men were deployed, as I understand, about 2 yards—6 feet—apart?—A. I believe they were, sir; that was the average distance. It varied slightly.

Q. And if you had 40 men in line, it would be five times—the line would extend five times 39 spaces, would it not?—A. It would, if I had 40 men in line, but out of that 40 would have to come several noncommissioned officers.

Q. Well?—A. And the men were stationed, some of them, in pairs of twos and threes and the interval varied. My line extended from the gate to somewhere in rear of the west end of C Company's barracks.

Q. Well, I shan't be very particular about that, but whatever distance they extended, if there were 30 men in line, it would be five times thirty, or about 150 feet?—A. Yes, sir.

Q. Extending up in the rear of barracks B, covering the interval between barracks B and C and about midway, I think you stated yesterday, of barracks B?—A. Yes; not quite midway in rear.

Q. That was the space?—A. Yes, sir.

Q. Now, you were asked something about the guns being cleaned. It could have been done, could it not?—A. Why, it could have. I

think I stated that you could use the cleaning implements that were in the butt of the rifle. I believe this could have been done without my seeing it.

Q. And they have also a piece of rag in the butt of the rifle, haven't they, with the thong and the brush, and a small bottle of oil?—A. I do not believe they have a rag there, sir.

Q. Do you know?—A. I am pretty sure they have not, sir.

Q. But there is a bottle of oil?—A. There is oil there.

Q. And there would be space there for a rag if they wished to carry it?—A. It would be possible to put a small rag in.

Q. The length of time that it would take to clean a gun—while in this connection—that is, the bore of the gun—would be how long?—A. I should think about ten minutes.

Q. Did you say yesterday from five to ten minutes, or am I mistaken about that?—A. I do not believe I have ever estimated that under ten minutes.

By Senator FRAZIER:

Q. While Mr. Warner is looking at his notes, how much experience have you had in cleaning these new Springfield rifles? Have you ever cleaned one?—A. Yes; I have cleaned one.

Q. Where, and how often?—A. I have cleaned them while stationed at Fort Niobrara. I had a rifle, and though the man who did my work generally cleaned it, I have cleaned it a number of times, probably half a dozen—that is, wiped out the bore when it was getting too foul.

Q. That was when you were on the range, was it?—A. After my return to my quarters, sir. I also cleaned this rifle myself when I first received it—that is, to get the oil off it.

By Senator WARNER:

Q. In the inspection that you made of the men on the 14th of August, just state to the committee what you did with regard to it.—A. Just what I did with each gun, sir, when I made my inspection?

Q. Yes.

Senator BULKELEY. Could he not illustrate it with the gun there? You have a Springfield rifle there.

Senator WARNER. Certainly, take the gun if you will and illustrate it.

A. Yes [taking the gun]. Why, the soldiers at the command of inspection arms, open their rifles and are standing in some such position as this.

Q. Opening the rifle—that is, you mean pulling the bolt back?—A. Yes; pull down the bolt, and the inspector comes along and with his right hand takes the rifle in that way and looks in it and down there, examines the bolt, the head of the bolt, and so forth—you understand, that is what I did that morning?

Q. Yes; I am speaking of what you did that morning.—A. And that opens the bolt and turns it so that the light would shine in, and looked in the muzzle. If the rifle appeared to me to be perfectly clean, and I was absolutely certain it had not been fired, I handed it back to the man, who closed the bolt and brought it to order.

Q. That was all you did?—A. Yes; that was all that I did.

Q. And how long did it take you to inspect the company that morning?—A. I suppose it took in the neighborhood of half an hour, sir.

Q. Do you think it took you more than fifteen minutes?—A. I believe it did, sir. I did not look at my watch at any time during this proceeding, but I examined every man in the company pretty carefully, and I believe it took me over fifteen minutes.

By Senator FRAZIER:

Q. Do you recollect how many men were in line that morning when you made the inspection, whose guns you did inspect?—A. I believe, sir, that there were about 42 or 43.

By Senator WARNER:

Q. I find on page 513 of the court-martial proceedings of Major Penrose this question and answer:

Q. About how much time did you occupy in this inspection of your pieces?—A. I think I took about fifteen minutes.

A. I think now that that is too small an estimate. I believe it was more than fifteen minutes.

Q. That testimony was given only a comparatively few days since, was it not? It seems to be under date of February 23.—A. I do not understand that question.

Q. That was given, I think, if I am not mistaken, on the 23d day of February?—A. Yes; I suppose that is correct.

Q. You now double the time, and instead of fifteen you make it thirty minutes.—A. In neither time am I sure. I had no watch. It is just an estimate. At the time I testified before the court-martial it seemed to me that it had been about fifteen minutes. Now I believe it was more than that.

Q. What induces you to revise that estimate?—A. Well, it seems to me that fifteen minutes is too small an estimate. I inspected each gun carefully.

Q. How many guns did you see?—A. I am not sure of the exact number. I believe 42 or 43, somewhere in that neighborhood.

Q. In inspecting those guns you took no piece of white paper and put it down at the breech of the gun and looked through, to aid you?—A. No; I could get pretty good sunlight. If you can get a ray of sunlight to fall on the breech of a gun, you can get a reflection through the muzzle.

Q. I say you did not do that?—A. No; I did not.

Q. Nor did you put any rag through the gun?—A. No; no rag.

Q. You made no other test than that you have stated?—A. No other test.

Q. Now, you put aside on that inspection seven guns, you say?—A. Yes, sir.

Q. What was the appearance of those guns?—A. These guns were not as clean as they should be, and before making a positive statement that no guns had been fired I wished to conduct a more thorough test with those seven.

Q. Do you know the men?—A. I could not be sure of the names of all of them. I think that I recollect two or three of them.

Q. Who were they?—A. One of them, I believe, was Private Leroy

Horn, of Company B; another one was Private William Anderson, of Company B; another one was Private George W. Mitchell, of Company B. I can not recollect the others.

Q. But there were seven of them in all as near as you can remember?—A. I believe there were seven.

Q. When was this surplus ammunition turned in?—A. It is my recollection that it was turned in the next day—that is, on the 14th. I do not exactly remember at what time.

Q. It was not turned in that night?—A. No; it was not.

Q. Were you present when it was turned in?—A. Yes; I was.

Q. So you know it was not turned in that night?—A. Yes; I know it was not turned in that night. I am almost certain of it.

Q. Now, on the range, on target practice, as I understand you, the soldier is supposed to turn in the surplus ammunition?—A. Yes; he is.

Q. But you do not mean to say that all of the surplus ammunition is turned in by the soldier on the range, do you?—A. I believe it generally is, sir. I do not know of any cases where it has not been.

Q. Don't you know, as a fact or from information, that soldiers do have extra cartridges from your information—from your knowledge as an officer?—A. Why. I have heard of soldiers that had; yes, sir.

Q. How acquired?—A. Why, it seems to me that in some of the testimony that has come out before this committee—

Q. I do not care about the testimony in this commission, but I am taking your information.—A. That is what I have heard it from: that is where I get the information.

Q. You stated in your own testimony that he might pick up a cartridge or two on the range, haven't you?—A. I don't remember stating that, sir; but it might be possible for him to pick up one or two.

Q. How were those cartridges issued to the men on the range?—A. There was a box of ammunition taken out and placed at the firing point, and there are a certain number of rounds, five or ten, required to be fired by the soldier when he comes to the firing point. The names of two men are called, and these two men take their positions at the firing point and from this box of ammunition take one clip or two clips and use them there. When they complete their string of shots they return to the tent or point in rear of the firing line where the men that are not firing are resting or remaining.

Q. Well, is that all?—A. The question was how this ammunition was issued to them, sir?

Q. Yes.—A. As they reach the firing point they take a clip or two clips out of the box, and that is all that is issued to them.

Senator BULKELEY. Does anyone have charge of that box?

A. Yes; there is always an officer at the firing point.

Senator WARNER. What do you mean by an officer at the firing point?

A. There is always a commissioned officer at this point—that is, where the men are firing—generally, just in rear of them, to see that they fire in accordance with the rules and regulations laid down in the firing regulations.

Q. And is the commissioned officer in charge of the ammunition?—

A. Yes; I think he is in charge of everything out there.

By Senator LODGE:

Q. Does he serve it out to the men and make a memorandum of it?—A. No; he does not, but he sees them take it out.

Q. He sees them take it out, but does he serve it out to them himself?—A. No, sir.

Q. Does he receive the exploded shells or the excess when they are brought back?—A. No; those are picked up by a man detailed to do that work, and the decapped or exploded primer is taken out and placed in a bucket of water.

Q. Is that the artificer who does that?—A. No; it is some private detailed for that duty.

Q. You do not have an artificer in your company?—A. Yes; they do.

Q. But he did not perform that duty?—A. No; that was not his duty.

By Senator BULKELEY:

Q. Was there any noncommissioned officer in charge of the ammunition at the firing point where it is distributed?—A. There was always a noncommissioned officer present to march out the firing squad and march them back, but he did not deal out the ammunition.

By Senator LODGE:

Q. Whoever dealt out the ammunition, did he keep a memorandum of the number of cartridges given to each man?—A. No; but he could see—understand, I stated that no one dealt out ammunition. The men took it.

Q. They helped themselves?—A. They took their two clips out of the bandolier and did their firing.

Q. Then didn't they return the exploded shells?—A. Yes; they are picked up by the man, I stated, who was detailed for that work.

Q. Then the men do not return the exploded shells themselves—each man does not?—A. They frequently do, to save time and keep this man who picks them up from crawling around the firing point.

Q. What I want to get at is this: Is there some responsible officer who gives out the cartridges and makes a memorandum of them, and then when the exploded shells are returned credits those to the men returning them, so that it shall be known exactly how many shells each man has fired, and that every cartridge is accounted for?—A. No; no one issues this ammunition or checks it up.

By Senator WARNER:

Q. The fact is, each man goes out and takes his ammunition out of the box?—A. Yes; his ammunition out of the box.

Q. He is supposed to take one or two or three clips, whatever it is?—A. Yes, sir.

Q. He can take more if he wants to, but it is simply a question of whether he will be detected or not?—A. Simply a question of whether he would be detected.

Q. That is all there is of that?—A. Yes, that is all.

Q. That is the practice in the Twenty-fifth Infantry?—A. Yes; I think that is the practice throughout the Army.

By Senator BULKELEY :

Q. But there was a commissioned officer supervising their firing at the firing point, where this ammunition is issued?—A. Yes; he generally sits in a chair, with this box of ammunition at his feet.

Q. So that if they took more than was allotted to them, or their proper amount, he would be likely to see it, would he not?—A. Yes; it would be his business to see it, and probably he would.

By Senator LODGE :

Q. But he would know just how many they brought back of exploded shells?—A. Why, they do not get 3 feet away from him, sir, and he can see them all the time.

Q. I do not mean to press you unduly, but what I want to get at is this very simple fact: Is there an accurate account kept of the cartridges issued and the number fired?—A. Yes; I think there is.

Q. Well, these cartridges are issued to a soldier, and he has to account for those cartridges by returning the exploded shells?—A. No, sir.

Q. He does not?—A. He does not.

Q. There is no officer who issues them and counts the exploded shells to see if they correspond to the number issued?—A. The number of shots that he fires are very carefully kept count of.

Senator SCOTT. So many shots at a certain range?

A. Yes, sir.

Senator LODGE. It is quite possible that a cartridge may misfire or be lost?

A. If the cartridge misses fire, he gets a new one out of the box. There is a man sitting there watching every shot this soldier is firing, and he is watched by a dozen people when he shoots.

Q. Do you mean to say that a cartridge never fails to explode?—

A. It sometimes fails to explode.

Q. And that none are ever lost?—A. Some are lost, probably.

By Senator FORAKER :

Q. What is done with the cartridge that fails to explode?—A. It is generally tried a second time, either in that man's gun or passed on to somebody else.

Q. I mean is it returned or not?—A. It is returned to the box.

Q. And he must return that before he gets another one in place of it, must he not?—A. Yes, sir.

By Senator FRAZIER :

Q. You are speaking of one character of target practice, and there is another known as skirmish practice?—A. Yes, sir.

Q. Which is entirely different from this about which you have just been speaking?—A. Yes; there is quite a little difference.

Q. In that the men, as I recall it—and you can correct me if I am mistaken—go and get a certain number of cartridges, and then the men are stretched along a line, covering quite a considerable distance and widely separated?—A. Yes, sir.

Q. And move in order and fire at certain specified intervals?—A. Yes, sir.

Q. They are not, then, in the presence of this man who sits with the shells at his feet and numbers the firing, at all. Is that correct?—A. That is correct.

Q. They shoot as the general command is given to shoot?—A. Yes, sir.

Senator SCOTT. Do they shoot with regulation cartridges on skirmish?

A. Yes; regulation steel cartridges.

Senator FRAZIER. In that kind of skirmish practice on a range no one is watching each particular man to see whether he fires all his cartridges or whether he returns all his cartridges?

A. I think a more accurate check is kept in that case than any of them, because for failing to fire the prescribed number of shots at each halt so many points are deducted from this man's score, and behind each man or each two or three men there is always a noncommissioned officer, or in important competitions and for record a commissioned officer, who walks in rear and keeps count of the number of shots fired, notices in each case the misfire, or in case where a man fires more or less than the prescribed number of shots.

Q. Suppose he should be given a number of cartridges to fire, say 10 or 20 rounds, and some of his cartridges should miss fire, would he be allowed to take out a surplus so that he might provide for that contingency?—A. No; he would not. In case of a misfire the regulations state that he must call immediately for a new cartridge, and if the officer who is present thinks that this is a defective cartridge, and misses fire through no fault of the soldier, he hands him a new cartridge and takes the old one himself.

Q. No count is kept of that—no record of the cartridges that are misfired or returned?—A. Yes; I think so. The soldier is issued 20 at the start and must fire all of those 20 or be demerited, and they are counted at the other end to see if he has any that he has failed to fire.

Q. What do you mean by counted at the other end?—A. I mean after completing his skirmish run. They approach the targets from 600 yards to 200 yards, making six halts in that distance. At the last halt they fire five shots and then attention is sounded by the trumpeter and the men are brought to report arms, and made to open the chamber of their rifles and the officer who has gone down in rear of each squad of men comes along and inspects the rifles of his squad, and inspects their belts and pockets to see if they have secreted any round that they have failed to fire, for which they would be demerited.

Q. He searches each man?—A. Yes, sir.

By Senator SCOTT:

Q. At these different points as they approach the target, they fire so many shots from so many yards, do they not?—A. Yes, sir.

Q. As they approach the target?—A. Yes, sir.

Q. They stop and fire so many rounds at 600 and so many at 300, we will say?—A. Yes, sir.

By Senator LODGE:

Q. We have had testimony on this point from officers of the Twenty-sixth Regiment. It does not appear that they have any such exactness of examination that you speak of. I want to ask why is that?—A. I suggest, sir, that you consult the firing regulations on the subject.

Q. That is very kind, but I am asking you a question. Why do you suppose there is a distinction made between the two regiments

in their practice?—A. I know nothing of the practice of the Twenty-sixth Infantry, sir. I have testified as to the practice of the Twenty-fifth, the only one whose practice I know anything about.

Q. But I know something about the practice of the Twenty-sixth, because it has been testified to. It is testified to as quite different from what you have testified to as to the Twenty-fifth, as not nearly so exact and careful and accurate about the return of the cartridges, and I ask you why you suppose such a distinction is made?—A. I do not know, sir; unless the Twenty-fifth Infantry is a more efficient regiment than the Twenty-sixth.

Q. The Twenty-sixth has a good reputation?—A. So far as I know, sir; it has.

By Senator FORAKER:

Q. At any rate you know that you conformed to the rules and regulations prescribed for target firing?—A. Yes, sir.

Q. And that those rules and regulations are rigidly enforced in your regiment?—A. Yes; they are.

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, Frazier.

TESTIMONY OF SECOND LIEUT. GEORGE W. LAWRASON, U. S. ARMY—Continued.

By Senator WARNER:

Q. Do companies accumulate surplus ammunition?—A. They do not now, sir. The regulation came out some time last spring, I believe which required all surplus ammunition to be taken up—that is, accounted for on the ordnance returns. Prior to this it was possible for companies to accumulate surplus ammunition. They were given a certain allowance per man for the target season, and besides this a certain allowance for turning in empty shells. For so many empty shells turned in so many ball cartridges were issued, and I believe that most companies in the service prior to the spring of 1906 were ahead a certain amount of ammunition, varying in different companies.

Q. Was that true of your regiment, the Twenty-fifth?—A. Yes; it was true of the Twenty-fifth.

Q. You accumulated a considerable amount of surplus ammunition in that way?—A. Yes, sir; it varied in the different companies.

Q. Men who went out on hunting parties would be given cartridges?—A. Yes; in cases where they would go after large game. I believe it was customary for men to go out on hunting parties to be given cartridges.

Q. Given cartridges?—A. Given ammunition; yes, sir.

Q. The term you use for cartridges always is ammunition, which is the proper term?—A. Yes, sir.

Q. We laymen use the other term. When a party would go out hunting you would give them about how much ammunition?—A. I do not know. No man went out with ball ammunition at Fort Niobrara, Nebr., or Fort Brown, Tex. In other words, no man of the Twenty-fifth Infantry since I joined it ever went out, to my knowledge, with ball cartridges. The game around the posts where my regiment has been stationed has always been small game.

Q. Rabbits?—A. Rabbits, prairie chicken, etc.

Q. Jack rabbits?—A. Yes, sir.

Q. Is not that considered very good training for the soldier to shoot jack rabbits with cartridge?—A. I suppose so, but the men are able to hit them better with shotguns, and, I believe, prefer to use them.

Q. But if they preferred a ball cartridge they would get them?—A. I suppose so.

Senator SCOTT. But they did not have them, did they? Just a moment. I do not ever get in very often, and I want to get in while the matter is in my mind. I understood the lieutenant to say at Niobrara or Brownsville no one went out with ball cartridge with the Springfield rifle; is that correct?—A. They did not go out, sir. I know of no instance in which a soldier went out with either a Krag or a Springfield rifle hunting at either of these places.

By Senator WARNER:

Q. Do you know that no soldiers went out with ball cartridges at Niobrara?—A. No; not positively of my own knowledge.

Q. Do you know that none went out at Fort Brown?—A. I could not swear that none went out, but I am positive that none did. I know that none went out of Company B.

Q. But if they did, how many cartridges would be given when they went out on hunting parties—50, 100, or how many?—A. Oh, I suppose they would take 10 or 20 possibly.

Q. No more than that?—A. It depends upon the length of time they expected to be out. Possibly they would take more on going on an extended hunting expedition.

Q. No officer would go along to keep track of those cartridges?—A. I suppose not, sir.

Q. Don't you know?—A. No, sir; I do not know. I have frequently taken men with me when I have gone out on a hunting expedition—duck hunting.

Q. Then you had a shotgun, I suppose?—A. Yes, sir.

Q. In your company were there many new recruits, or were they mostly soldiers that had been in the service for some time?—A. Most of the men were old soldiers. There were quite a number with a year or two of service, I think, and several with less than a year.

Q. When was it you inspected the rifles in the arm chests?—A. At night when the company was turned in I inspected the rifles in the racks, saw them locked, and, I believe, proceeded from the arm-racks down to the company's storeroom, and inspected the arms at that time. I am not positive of when I inspected the arms in the storeroom. I believe that it was immediately after inspecting the arms in the racks, seeing them locked in the same.

Q. Upon reflection, was it not the next morning?—A. I don't think it was. It was my impression at first, and possibly I testified

at San Antonio that it was the next morning. It was the next morning, I think, that I investigated the ammunition, but after reading some of the testimony that has been brought out before this committee, and refreshing my memory, I am of opinion that I inspected them that night.

Q. But you do remember that you testified it was the next morning when you went down?—A. I believe I testified that it was the next morning, sir, before the Penrose court-martial.

Q. And you change that from reading the testimony that has been given before this committee?—A. Yes; I refreshed my memory.

Q. Whose testimony?—A. I do not recall at the present time. I think it was that of Sergeant McCurdy.

Q. He was the quartermaster-sergeant of your company?—A. He was the quartermaster-sergeant.

Q. I notice in your testimony before the court-martial, on page 503, this question and answer:

Q. Where was this arm chest?—A. It was in my ordnance storeroom, and when I went there the next morning it was covered with bunks and a box or two.

You remember the testimony down there?—A. Yes, sir.

Q. You wish to correct that now?—A. Yes, sir.

Q. That arm chest, how did you open it? Was it nailed down or screwed down?—A. I recollect that it was fastened, and the usual method of fastening these chests is by screws. I don't positively recollect whether it was screwed down or nailed down. My impression is that it was nailed down.

Q. You testified yesterday that it was screwed down, I believe?—A. Yes, sir; I think I testified that I—

Q. Was that your impression then?—A. I think I testified yesterday that I thought it was screwed down. My impression then was that it was nailed down, but I was not sure of it.

Q. You were quite clear as to your testimony about this before the court-martial. I read this question, beginning on page 503 of the court-martial proceedings:

Q. When you opened it [referring to the box], tell the court how it was done.—A. It is my recollection that the top of this box was nailed on. I had a man open it with a hatchet.

What is your recollection about that now?—A. Well, I can recollect the hatchet. I do not recollect whether he opened the box by tapping on the lid or by inserting the edge of the hatchet blade into the top of the screws, which would have been possible, as they are large-headed screws, and I have seen them opened in this manner.

Q. Do you make this change because of having read the testimony taken before this committee also?—A. Yes; I do.

Q. Not from your own recollection?—A. No; because I am not positive about it from my own recollection.

Q. You took one or two of the guns out of the arms chest, I think you say?—A. Yes, sir.

Q. That is all. About how many guns were there there that were not in either of the chests?—A. I am not positive. I remember of a rifle belonging to the quartermaster-sergeant, and there was another rifle in the corner. I don't recollect at the present time whether it

was a .22-caliber rifle, one of those, or another rifle belonging to Private Allison, who was discharged a day or two prior to this.

Q. This rifle was not in the arms chest?—A. Private Allison's?

Q. Yes.—A. I am not sure about that.

Q. It may have been there?—A. It may have been there.

Q. What makes you think it may have been in the chest?—A. Because I am not sure that it was standing in the corner.

Q. How many rifles did you find there outside of the arm chests that night?—A. I think I stated that I was not positive of the number. It seems to me I remember seeing two rifles of some description standing in the corner, one being the quartermaster-sergeant's.

Q. Two rifles of some description—do you want the committee to understand that you can not tell whether those were Springfield rifles or not?—A. Yes; I do. I am not clear in my mind as to the exact disposition or the kind of rifles that were there in the corner. My mind is not clear on that.

Q. Are you clear as to the number there were?—A. I am pretty clear as to the fact that I checked all these rifles up that night, and I counted for every rifle in the company—seventy. I do not at the present time remember where every particular rifle was.

Q. Well, didn't you inspect those rifles that were in the corner?—A. Yes, sir.

Q. In the inspection couldn't you tell whether they were Springfield rifles or not?—A. Yes; of course I could.

Q. Well, now, were they Springfield rifles?—A. I don't recollect whether they were Springfield rifles or not. I knew at the time, though, without a doubt.

Q. This morning I asked you a question about the time of cleaning a rifle, and I think you said you never had placed the time under ten minutes—cleaning the bore of the rifle.—A. I believe, sir, that I said I did not think I had. I believe you read later where I had stated from five to ten minutes, or something like that.

Q. I did not have it then, but I now read from page—well, I do not think that is material. You also say that a gun could be cleaned, in a manner, while in the gun rack.—A. Yes, sir.

Q. Have you ever made the test?—A. No; I have not.

Q. Of course, when you clean it in the gun racks you have to put the gun rack down on its side and withdraw the bolt?—A. Yes, sir.

Q. And then you insert the ramrod?—A. Yes, sir.

Q. And there is no trouble in doing that, is there?—A. I don't know, sir; I have never seen the experiment performed, and I did not think it was possible to clean a rifle in the rack until I heard, after I testified before the Penrose court-martial, that such an experiment had been performed, and that it was possible.

Q. You testified that it was not possible?—A. Yes; I did.

Q. In your judgment. You have testified as to making the examination of the barracks and having failed to find any evidence of any shooting upon them. That is correct, isn't it?—A. Yes, sir.

Q. What time the next morning did you do that?—A. I am not sure now of the time that this inspection was made. It was, I believe, some time in the neighborhood of half past 6 o'clock, or possibly a little later.

Q. By whose orders, if any, did you make that inspection?—A. By orders of Major Penrose.

Q. You reported to him?—A. Yes, sir.

Q. The result of that inspection?—A. Yes, sir.

Q. Sergeant Sanders also knew the result of that inspection—he went with you?—A. No; he did not go with me. He was one of the men inspected.

Q. I think we misunderstand each other. I am speaking of the inspection of the barracks for evidences of whether any shots had struck the barracks.—A. Oh, pardon me.

Q. The time that you made that inspection?—A. Well, I think Sergeant Sanders accompanied me.

Q. I am asking you the time in the morning.—A. It was some time on the 14th of August, 1906. I don't recollect the exact hour, or whether it was in the morning or about noon.

Q. By whose orders, if any, did you make that inspection?—A. By no one's order. I made it of my own volition.

Q. Just to satisfy yourself?—A. Yes, sir.

Q. You had heard at that time, had you not, that several of the buildings in the town of Brownsville had been shot into, a man had been killed and another wounded, and a horse had been killed?—A. Yes; I had heard that.

Q. Did you go down into the town to examine any of those buildings?—A. No; I did not.

Q. Any time while you were at Brownsville?—A. No, sir.

Q. You never did make an examination?—A. No; I never made an examination of them.

Q. You heard of the ammunition being found?—A. Yes, sir.

Q. And it was alleged that it was Springfield ammunition?—A. Yes, sir.

Q. Did you see any of that ammunition?—A. Yes, sir.

Q. You recognized it, did you?—A. Yes, sir.

Q. As the Springfield ammunition?—A. As the Springfield or similar ammunition, sir.

Q. When I speak of Springfield ammunition, that is the shell?—A. Yes, sir.

Q. The case, the cartridge?—A. Yes, sir.

Q. Will you tell the committee, if you please, in what other gun a cartridge case is used that is similar to the Springfield new model, such as you used at Brownsville?—A. It can be fired in a Winchester; I don't recollect the model. One of the later Winchester models fires similar ammunition, and I have seen a box of ammunition, similar ammunition, manufactured by, I believe, the Union Metallic Cartridge Company, with a guaranty on it that it can be used in several high-power sporting rifles.

Q. In the Winchester rifle how many lands are there?—A. I believe there are six.

Q. There are only four in the Springfield?—A. Only four.

Q. So if these balls had four lands they could not have been fired out of a Winchester?—A. No; not if the lands were plainly discernible.

Q. Nor in any other gun that you know of?—A. Nor in any other that I know of.

Q. Who was it showed you those cartridge cases?—A. Capt. Edgar A. Macklin, Twenty-fifth Infantry.

Q. Did he tell you where he had picked them up?—A. He said that he had picked them up in the alley or in the road, I don't remember which, on the Brownsville side of the wall.

Q. Now, when you speak of the alley, do you understand that to be the alley between Elizabeth and Washington streets?—A. Yes, sir.

Q. You examined those cartridge cases?—A. Not closely, sir. I glanced at them and thought they were the regular Springfield cartridges.

Q. And you saw clips alleged to have been picked up in that neighborhood?—A. Yes, sir.

Q. And they were such as were used with your Springfield cartridges?—A. Yes; similar clips.

Q. Are such clips used with the Winchesters?—A. I believe not, sir, although I do not know.

Q. Do you know of any other gun in which they are used excepting the Springfield?—A. I know that several varieties of rifles use clips; I don't know that they would use the same ammunition.

Q. Did Captain Macklin tell you what time it was that he picked those clips up?—A. I don't recollect exactly. I believe that he said he picked them up as soon as it was light enough to see on the morning of the 14th.

Q. Did those clips and cases make any impression on you as to who did the shooting?—A. Upon seeing those I became of the opinion that the soldiers had done the shooting.

Q. Did you communicate your impression to anyone?—A. Not that I recollect, sir, although it is quite possible that I did.

Q. Did you talk to your first sergeant about that, Mingo Sanders?—A. Yes, sir.

Q. What did he say?—A. I don't recollect that he expressed himself on the subject. I remember telling him that the evidence pointed to the soldiers having done the shooting, that clips and cartridges had been picked up in town.

Q. You afterwards saw other shells, did you not, that had been picked up?—A. No; those are the only shells I have ever seen.

Q. You have not seen any of the others?—A. No, sir.

Q. You heard of others being found, did you not?—A. Yes; I did.

Q. Now, when you heard this shooting, you said in volleys—that is, what kind of volleys?—A. I mean scattered bunches of shot. In other words, a volley is where several men fire their pieces simultaneously. By a scattered volley I mean a ragged one, not as one report, but where you can distinguish a number of reports, mixed up in one.

Q. And as you have stated, the report from these guns were that of a high-powered gun, so far as you could judge?—A. It seemed so to me.

Q. And alike in character to that you had heard in the range?—A. Yes, sir.

Q. Did you examine any of the bullets that were picked up? I think you said you had not.—A. No; I had not seen the bullets at all until to-day, or yesterday, I think it was.

Q. Did you hear any revolver shot?—A. No; I did not.

Q. I find in your testimony, on page 519 of the court-martial proceeding, this question:

Did the rifle fire that you heard on August 13 sound in any manner similar to the rifle fire on the target range?—A. Yes, sir; I believe I heard rifles being fired at the time.

That is simply the same as you believe now?—A. That is correct; yes, sir.

Q. Now, in the cleaning of the bore of a gun, simply to remove signs of powder after it has been fired five or ten times, or a matter of that kind, it can be cleaned much more readily a short time after the firing, within two or three or four hours, than it could if it stood fifteen or twenty hours?—A. Yes; I believe so.

Q. Is not that your observation and knowledge?—A. Well, after it has stood several hours it has been my experience that it is apt to get rust mixed with the powder, and I believe that the powder probably cakes more and gets harder to remove. I don't know positively about this, but I believe it is easier to clean a gun immediately after it has been fired than it is after it has been allowed to remain dirty for some time.

Q. And if you should clean the gun about 2 o'clock with a thong brush, for a time it would appear brighter than if it were cleaned with a rag and oil, would it not?—A. I think not, sir. I know that a rag and oil is a much more efficient method of cleaning than a thong brush, and I believe the bore would be brighter after being cleaned with a rag and oil than with a thong brush.

Q. There is in the thong brush a place to insert a rag, is there not?—A. Yes; at the head of the thong brush there is a slot for a rag.

Q. And the purpose of that thong brush and appliances is for cleaning of the bore of the gun?—A. Yes, sir.

Q. Now, in the shooting of a gun under what circumstances, if any, is it that any powder gets back in the chamber? How can it get back?—A. In the firing of a gun sometimes I believe some gas may escape through the primer, if it does not fit perfectly air-tight.

Q. Now, let us understand. Let me have a shell, please, of the Springfield kind. Here is a cartridge. What is the primer?—A. This is the primer, this little brass or copper piece in the center.

Q. That is, it has the same purpose as what we call the percussion cap?—A. Yes, sir.

Q. It answers the same purpose, and the striking of that is what discharges the gun?—A. Yes, sir.

Q. This copper?—A. Yes, sir.

Q. And that is but very rarely penetrated, is it not?—A. I think it is very rarely penetrated, sir.

Q. And if the primer is not penetrated, no gas or powder can get back into the chamber. That is true, is it not?—A. Well, I don't know about that. It is possible for it to get back between where the primer comes in contact with the wall of the cartridge head, if the wall of the primer should break—

Q. I understand, if the wall of the primer should break; but if the primer is not penetrated and the wall of the primer does not break, then there is no way of gas or powder getting back of it?—A. No; I believe not.

Q. Then in that event no gas or powder would get into this space here that we have been calling the chamber under the bolt and back to the breech of the gun. That is correct, is it not?—A. Yes; unless in cleaning the piece some residue from the barrel should get into the chamber.

Q. Yes; unless you would get it by cleaning the piece.—A. Yes, sir.

Q. But not by firing?—A. I should think not, sir.

Q. And in cleaning the piece every soldier is prepared, is he not, having a plug to place in the breech of the gun so as to prevent that occurring?—A. Yes; though I think the plug is very seldom used. It is only used when water is used in the barrel. They generally, when cleaning the gun—

Q. In cleaning it with oil or anything of that kind they would not need the plug?—A. No; they would wipe out the chamber anyhow.

Q. I note in this property book that a good many of the soldiers did not give a receipt for their guns. I think you testified to that. I have not examined the book.—A. Yes; it appears in the book that they did not.

Q. And is it not a fact that the numbers of the guns get mixed sometimes?—A. I believe it very seldom happens, sir.

Q. But it does happen?—A. Yes; it is possible it might happen.

Q. Is it not also a fact that soldiers exchange guns?—A. They exchange them sometimes temporarily. When a soldier might have a specially clean gun and be what is called an orderly buckner—in other words, when he marches on guard and attempts to get detailed as an orderly to the adjutant or a commanding officer, in which case his guard duty is much easier.

Q. In speaking of that you call him a “bucker for orderly?”—A. Yes, sir.

Q. The fact of it is that the buckner for orderly has extra ammunition, too, hasn't he?—A. I never knew of one in my company having one, sir.

Q. I think it is in evidence here that when he was buckner for orderly he had possibly ten rounds that he called for sunshine and the other for rainy days.—A. Nothing like that came to my knowledge.

Q. Might have been done without your knowledge?—A. It is possible, sir.

Q. Where did the men keep the surplus ammunition, if they had any, prior to this order that you say was issued last spring?—A. The surplus ammunition was not in the hands of the men, but in the ordnance storeroom, probably in sealed cases that had never been opened.

Q. It was not infrequent, was it, or do you know from your own experience, for a soldier to have a few cartridges in his locker or somewhere around—extra cartridges?—A. I have seen a few extra cartridges in men's lockers. I have seen one or two rounds of Mauser ammunition, of old cartridges that had failed to explode, perhaps. I suppose I have seen a dozen such in the hands of the men.

Senator BULKELEY. In the hands of one man?

A. No; in the lockers, in going through.

Senator WARNER. In the hands of the men, he said. Did you superintend the packing of these rifles at Fort Niobrara?

A. No; these rifles were packed while Captain Shattuck was company commander, and I did not supervise the packing of them.

Q. And the fact is, is it not, that you had nothing to do with the packing of them? That was not a part of your business at that time?—A. No; it was no part of my business.

Q. The packing of the rifles, as far as that was concerned, was entirely with the captain and quartermaster-sergeant?—A. Yes; except that I had charge of the shipment of them. The captain was not in command of them at that time.

Q. You had charge of the arms chests when you left there?—A. Yes, sir.

Q. You had nothing to do with the packing of them?—A. No, sir.

Q. And you don't know how many were put into the case, or anything about it?—A. No, sir.

Q. Now, do you know what condition the guns were in when they were packed in the cases, of your own knowledge?—A. No, sir; not of my own knowledge.

Q. Did you ever talk with anybody about what condition they were in?—A. I would like to change my answer to the last question.

Q. Certainly.—A. I do know the condition that a number of them were in, because when I inspected them in the arms chests at Brownsville they were coated with cosmoline.

Q. That is the only means you have of knowing?—A. Yes, sir.

Q. Did anyone keep a record of the numbers of the guns that were put in these arms chests, to your knowledge?—A. Not to my knowledge. I should think that there would have been a record kept of these numbers. I don't recollect seeing one.

Q. Well, you have no knowledge of it if there was?—A. No, sir.

Q. Now, when you got down to Fort Brown, you say you had some shells exploded—what do you call them?—A. Yes; exploded cartridges or empty shells.

Q. You call that a shell when it is exploded?—A. Yes, sir.

Q. They were put up in a regular cartridge box, were they not?—A. They were packed in a regular cartridge box.

Q. Those cartridge boxes are open at the end, as you call it, rather long?—A. Yes; the end screws on, I believe.

Q. That box was in that condition when you shipped it?—A. I have no positive recollection of the condition of this box when shipped, nor the condition of it when it reached Fort Brown.

Q. If you had seen it without being fastened up in that way, you would have had it done, or somebody would have had to account for it?—A. Yes; if I had seen it broken open there with the top off, or something like that, I would have nailed it.

Q. That is, you would have screwed it up, as you say?—A. Yes, sir.

Q. You have no remembrance of having seen that box at all at Brownsville?—A. No; I don't recollect seeing this box at Brownsville.

Q. Whose duty was it to take care of those empty shells?—A. It was the duty of the quartermaster-sergeant of the company.

Q. That is Walter McCurdy?—A. Yes, sir.

Q. And in taking care of those, where would he have to put them?—A. To take proper care of them he would have to put them in the storehouse and lock them up.

Q. Whether that was done or not, I assume you would not undertake to state?—A. No, sir; I believe they were not in the storehouse.

Q. Now, you volunteer that opinion. I did not ask you. Why do you believe they were not in the storehouse?—A. Because the storehouse was very small, and as we had not unpacked all of our property we only had room in this storehouse for some of the most valuable ammunition and rifles, particularly, and therefore there was a great deal of the quartermaster property that belonged in this room that was not put into it.

Q. But, as I understand, when you went and examined these arm chests there was a lot of old rubbish, screens, and bunks on top of the arm chests?—A. No; no rubbish; just bunks.

Q. Well, were those very valuable?—A. Yes; they are.

Q. And some mosquito bars?—A. Mosquito-bar standards—frames.

Q. They were very valuable?—A. They were not as valuable as some other articles, but these had been in the storeroom when we reached there, and we had not removed them. You understand, some of the quartermaster property—bunks, for instance, and these iron T-shaped things that hold up the mosquito bars—had not been shipped from Fort Niobrara to Fort Brown. We found them at Fort Brown as part of the equipment of the troops there. They were stored in the company quarters and some of them in the company storeroom.

Q. Now, right there give us the size of one of these ammunition boxes.—A. I do not recollect the exact measurements, sir; but I believe about 3 feet long by 8 by 10 inches—something like that. I am not positive that I am near the exact measurement.

Q. But that is your judgment—about 3 feet long?—A. Yes, sir.

Q. And of dimensions about 8 by 10 inches?—A. Yes; that is, the ammunition for the Springfield rifles was in such boxes.

Q. These shells were put in ammunition boxes—these exploded shells?—A. Yes; but I am not positive whether it was a Springfield box or a Krag ammunition box.

Q. Let us get the size of the Krag ammunition box.—A. It was more nearly square; I suppose about a foot and a half. [The witness indicated with his hands.]

Senator WARREN. You are measuring about 2 feet there.

A. Well, I am just guessing at the distance.

Senator WARNER. Just give your own estimate.

A. I should think about 18 by 12 by 10 inches would about measure it up.

Q. About 18 inches long, 12 inches wide, and 10 inches deep?—A. Yes, sir.

Q. So that that is all the space that would have taken up if it had been a Krag ammunition box?—A. That is my guess at the size of it.

Q. And you give as a reason why that was not put in the storage room, because there was not room for it?—A. I do not believe I said that.

Q. Why was it not put in the storage room?—A. Only our most

valuable property had been put in there, and the majority of the company property had been left out on the porch. Now, I don't know positively that this box was out there.

Q. I understand that.—A. But I believe it was, being among the least important of our stuff.

Q. But there is no other reason you can give for its being left out?—A. No, sir.

Q. Only among the least important?—A. Yes, sir.

Q. You had room for it in there if you had wanted to put it there?—A. Yes; we could have gotten such a box in the room.

Q. They were shells that had been brought from Fort Niobrara, of course, and where were they picked up—at the range, I assume, the target practice?—A. Yes; they had been used in target practice there and brought from the target range.

Q. Why were they not brought down?—A. Because they had not been shipped to the Rock Island Arsenal, as they would have been if we had proper appliances for removing the primer, decapping them we call it.

Q. They were brought down there because they had not been decapped?—A. Yes, sir.

Q. So as to get them ready to send back to the arsenal?—A. Yes. We knew we could get a certain amount of good ball ammunition by turning in these cartridges in proper condition.

Q. And that ammunition would belong to the men, would it not, of the company?—A. No, sir.

Q. To be issued to them as extra ammunition?—A. It would not belong to the men of the company. It would be ammunition assigned to the company for target practice.

Q. Well, it would be so much surplus ammunition over and above the regular ration?—A. Not now, sir. We have to account for every round and be responsible for every round.

Q. And the bandoliers—what did you do with those?—A. The bandoliers, as I recall it, at Fort Niobrara were turned in to the post ordnance officer there. I don't know what became of them.

Q. What were they turned in there for?—A. Because we supposed that they would be shipped back to the Rock Island Arsenal, where these cartridges would have been shipped.

Q. You knew that is what the regulations required, didn't you?—A. I don't recollect whether the regulations mentioned the bandoliers. They were a new part of our equipment, and I don't know whether they had been covered by the regulations.

Q. That was the order then, whether the regulations covered them or not?—A. It was the order of Captain Shattuck, in Company B.

Q. That those bandoliers were to be preserved so as to be shipped back to the arsenal?—A. Yes, sir.

Q. You had extra cartridges for those?—A. No; I believe there was no extra cartridges allowed for those bandoliers.

Q. Simply treated as ordinary property of the Government, to be returned?—A. Yes, sir.

Q. But they were charged up to the ordnance officer, as much as anything else, were they not?—A. I do not believe they were, sir.

Q. Have you knowledge on that question?—A. No; I have not. I do not think there was any regulation covering these bandoliers. My idea is that Captain Shattuck thought the proper thing to do

would be to send them back to the arsenal and possibly some regulation would be made covering them, and we might get extra ammunition for them. I am quite sure they were shipped to the ordnance officer anyhow—that is, turned in to the ordnance officer at Fort Niobrara, Nebr.

Q. Did you take with you any empty bandoliers of your company from Niobrara to Fort Brown?—A. No; not that I know of.

Q. Now, you have spoken something of target practice at El Reno?—A. Yes, sir.

Q. You were on leave of absence during the target practice?—A. I was.

Q. And you have no knowledge of it whatever?—A. Except that the regulations required that such target practice shall take place, and I was present on my return at one or two rifle competitions held there, in which I saw men participate.

Q. When the guns were turned in they were to be inspected, were they not—that is, the first shipment back to the arsenal, or to be put in the arm chest?—A. I believe only for the numbers and to see if they had been mutilated in any way, in which case the soldier turning them in would have to pay for them. I was not present when these rifles were turned in.

Q. But I mean with reference to your guns. Now, for instance, if you had 70 guns shipped for Company B?—A. Yes, sir.

Q. And 13 of them were in the arm chest?—A. Yes, sir.

Q. Some of them that had been issued and turned back. The gun that had been issued and turned back and put in the arm chest would be inspected, would it not?—A. Only to see it was there and what the number was, probably.

Q. Wouldn't it be inspected to see whether it was clean or not?—A. I do not believe they would take it out and make a minute inspection of it.

Q. I did not ask you about taking it out. You had, for instance, Sergeant Blaney, that you have spoken of. His gun was turned in?—A. Yes, sir.

Q. That was not to be shipped to the arsenal. Would not that be inspected to see whether the bore was clean or not?

Senator FORAKER. At what time?

Q. Well, before it was turned in?—A. This rifle would be turned in to the quartermaster-sergeant, and he would hardly inspect it, except to see if any of the parts were missing, or if it were broken in any way.

Q. Then Mr. Blaney could have turned his gun in with a foul bore?—A. I believe so.

Q. That you understand to be the rule in the Twenty-fifth?—A. No; I do not believe that this is a rule. I do not believe, however, that this gun would be inspected when turned in. It would appear clean; that is, a man would not turn in a gun that was covered with rust or mutilated in any way; but I do not believe the bore would necessarily be inspected.

Q. But when you speak of your belief you do not, as I understand it, claim that you were present when any of these guns were turned in?—A. No; I was not.

Q. Something was asked you about the distance that an ejector throws a shell after the gun has been fired. That depends altogether,

does it not, upon the rapidity upon which the bolt is drawn out?—A. Yes, almost entirely.

Q. It may throw it 6 or 8 feet or it may throw it 2 or 3 feet.—A. Yes, sir.

Q. Well, the clip is heavier, and that would fall near the feet of the party doing the shooting?—A. The clip would fall near the feet, not because it is heavier, but because it is inserted in a different manner.

Q. How far would that be thrown?—A. It would not be thrown at all. It would fall right near the feet.

Q. It would be thrown out of the gun with the spring?—A. No; it would just drop out. The bolt, being shoved home, would displace the clip, and it would fall down.

Q. And the fact that the gun had been fired quite a number of times and become hot from firing would have nothing to do with the clip or the shell, or the distance it would be thrown?—A. I do not believe it would affect it at all, sir.

Q. And the position that the shell would be found on the ground would depend upon how the man held the gun, and whether the shell lit one way and turned over another—it would depend altogether on those?—A. It would depend largely on those.

Q. So you could not determine from that with any accuracy about where the party stood who did the shooting?—A. I should think you could get a pretty good idea of it, sir.

Q. Well, then, what, for instance, would show it?—A. I do not believe I quite understand the question.

Q. Well, as to the shell. You go out here and find the exploded shell on the ground and you are asked to determine where the man stood. Could you do it?—A. No; I could only tell that he stood somewhere near it or to the left of it. That is, if I knew the direction in which the man had been firing.

Q. Somewhere to the left of it, and within a circle within so many feet of it?—A. Yes, sir.

Q. Anywhere in that circle. That would be accurate, would it not? And if you found several shells there, the same rule would apply, would it not?—A. Yes; I believe so.

Q. You had been in Brownsville how long when this shooting occurred?—A. Something between two and three weeks, I think, sir.

Q. You had been down in the town?—A. Yes, sir.

Q. And mingled with the citizens?—A. More or less.

Q. And the fact is that the citizens came in there and had their amusements, did they not?—A. Yes, sir; frequently.

Q. Was there a place for a baseball game?—A. Yes.

Q. Where was that located?—A. A little to the southwest of barracks 36, out on the parade grounds.

Q. There is a parade ground up beyond that?—A. Yes, sir.

Q. And the young men would go up there and play baseball?—A. Yes, sir.

Q. Was there any other place of amusement; any place for bathing?—A. They went swimming almost daily in the lagoon, marked "dry lagoon" there. It was pretty full of water at that time.

Q. And that was in the reservation, was it?—A. Yes, sir.

Q. Who would go in there—Mexicans?—A. The boys from town; mostly Mexican, sir.

Q. And is it not a fact that the Mexicans and the negro soldiers very readily fraternized together and mingled with each other?—A. They seemed to get along pretty well together, sir.

Q. That is, there did not seem to be that antagonism you sometimes find between the white and the negro troops?—A. No, sir.

Q. That is a fact, is it not?—A. I believe it is a fact in most cases.

Q. And that was your observation there at Fort Brown?—A. Yes, sir.

Q. And you were always treated well there by the citizens?—A. Yes; I was.

Q. Did you hear of any instances of mistreatment?—A. I heard of several cases in which soldiers had difficulties with the civilians.

Q. You heard of the Newton case?—A. Yes, sir; and the Evans case.

Q. And the Reid case and the Adair case?—A. Yes, sir.

Q. And possibly the Bates case?—A. No, sir; Bates was not one of those cases.

Q. Those were what you thought were usual cases, were they not, when men go out and go into the saloons?—A. I did not quite understand your question.

Q. I say there was nothing unusual about those cases, except the case of Mrs. Evans?—A. I think there was something unusual about them.

Q. Which one?—A. About the one where the man was struck on the head with a revolver.

Q. Newton?—A. Yes, sir; Newton.

Q. Some one has testified here that possibly Newton was quarrelsome when he would get drunk. Do you know anything of him?—A. No, sir; I knew nothing of him whatever.

Q. Well, what was there unusual about either one of the others?—A. I never heard before of a man being pushed overboard by an inspector of customs.

Q. No.—A. I thought that was unusual.

Q. Did you ever have any talk with Corporal Madison about how that occurred?—A. No, sir; I never did.

Q. You have read this testimony over?—A. Not all of it, sir.

Q. You were before the court-martial. Did you read this testimony to the effect that this man Reid was drunk, and making a noise, and got shoved off in that way?—A. No, sir; I do not remember about that.

Q. What other cases do you remember about? Was there any other?—A. Not that we have not mentioned, sir.

Q. You also know, I assume, that the colored soldiers were not permitted down there to drink at the same bar as the white men?—A. Yes, sir.

Q. Did that create any bad feeling?—A. Some of the soldiers probably felt sore about it. It didn't seem strange to me.

Q. Well, did you hear any expressions about it?—A. No, sir.

Q. When you say some of them probably felt sore about it, that is simply a matter of judgment, without any knowledge about it?—A. Yes, sir; a matter of judgment on my part, sir. I know when they first went there they went into these bars and were ejected, and probably they did not like it.

- Q. You heard that about it?—A. Yes, sir.
- Q. And then you heard that a bar had been started up on Garrison road by a man named Allison?—A. Yes, sir.
- Q. You heard that?—A. Yes, sir.
- Q. About what time before that shooting was this bar started?—A. I think it was on pay day.
- Q. The 11th?—A. I think it was the 11th; yes, sir.
- Q. Allison started the saloon there?—A. Yes, sir; it seems to me so, sir.
- Q. There was considerable drinking among the men of your battalion?—A. Not an unusual amount. I believe on pay day most of them drink some.
- Q. I do not know whether you were in when they had the canteen in the Army.—A. No, sir; I was not in then.
- Q. Unfortunately, quite a good many of them do drink and get rid of their pay-day money, do they not?—A. Yes, sir; I think most soldiers drink.
- Q. Yes. You knew of no feeling of the citizens there against your soldiers?—A. Well, sir, I do not believe that the citizens wanted the colored troops there at all. I took my meals at a boarding house in town, and, although I can remember no particular conversations, the general idea that I got there was that the presence of those troops was distasteful to the civilians.
- Q. Was that peculiar to Brownsville, or was it what you would think was peculiar to the South?—A. I should think it would be peculiar to the South.
- Q. Yes.—A. I do not believe they would be wanted in my town.
- Q. So there was nothing special, then, about that, as far as Brownsville was concerned?—A. No, sir.
- Q. Because you said that the Mexicans rather fraternized and equalized with them—associated with them on an equality?—A. Yes, sir.
- Q. Which the white people in your town, as you say, would not do?—A. Yes, sir; that is right.
- Senator WARNER. I think that is all that I want to ask.
- By Senator LODGE:
- Q. Lieutenant, I would like to ask you one or two questions. When you got out of your quarters and got down to the company when they were ordered to fall in, I mean just after the shooting—A. Yes, sir.
- Q. (Continuing.) The men, I suppose, were running down to fall in or coming down out of the barracks? They had not all gotten out?—A. No, sir; they had not all gotten out.
- Q. Were they lying down on the ground?—A. No, sir; I saw no men lying down.
- Q. Or kneeling?—A. I saw none kneeling, sir.
- Q. Did you hear them express fear that they would be hit by bullets if they showed a light?—A. Why, I am not positive about hearing them state they would be hit if they showed a light; but a number of soldiers seemed to be apprehensive of being fired on if they stood out there and formed on the company parade.
- Q. You saw Sergeant Sanders when he arrived?—A. No, sir; he got there soon after I arrived.

Q. I mean you were there before he was.—A. Yes, sir.

Q. You saw him after he arrived?—A. Yes, sir.

Q. Did you hear him say to the men, "Stand up; what is the matter with you?"—A. I don't recollect his exact words. I heard him cussing the men out some and telling them to stand up and be soldiers and get in their proper places.

Q. Did you hear anybody say to him, "Put that light out; you will have us all killed here?"—A. I recollect hearing no such remark, sir.

Q. You said that after you got to the quarters where the men were falling in you did not hear any more shooting.—A. No, sir; I recollect hearing no more shooting.

Q. Do you recollect hearing any while the roll was being called?—

A. No, sir; I remember hearing none after I reached the company.

Q. And the roll was called after that?—A. Yes, sir.

Q. So that you did not hear any while the roll was being called?—A. No, sir.

Senator LODGE. I think I might as well put in the record at this point that the reason why I asked this question was because Sanders testified that the firing was going on all the time the roll was being called. He said, at page 287 of the hearings before this committee:

When I got my roll mighty near complete the firing then seemed to be five or six blocks away off, going west—going north rapidly.

I merely wanted to get the answer of the witness on that.

By Senator LODGE:

Q. You did not hear any of that firing?—A. No, sir.

By Senator FRAZIER:

Q. I want to ask a question or two with reference to your ammunition. I believe you said that you issued to the company some ammunition that night, after the firing, before you took position around by the wall.—A. Yes, sir.

Q. Was that from a sealed box?—A. Yes, sir; it was from a sealed package.

Q. A sealed package?—A. Yes, sir; inside the box the ammunition is in a tin, you understand, and that is opened by seizing a handle and tearing the sealing off of the end of the tin.

Q. Was the entire box brought out on the parade ground?—A. Yes, sir; but not issued.

Q. Was it in the bandoliers?—A. Yes, sir.

Q. Do you know how much was issued?—A. I don't know positively, now, how much was issued. Approximately three clips to a man.

Q. Did you keep any account of it, or was it just issued to the men indiscriminately, a man taking as much as he wanted or needed?—A. No account was kept of it as it was issued to the men. It was done very hurriedly.

Q. Some men, as I understand you, may have received more than three clips and some less than three clips?—A. Yes, sir.

Q. You did not take up that ammunition or inspect the men with reference to the amount of ammunition in their possession that night, as I understood you?—A. No, sir.

Q. When did you do that?—A. The next day, sir.

Q. Next day?—A. Yes, sir.

Q. At what time the next day?—A. I am not positive now of the exact hour. It was sometime in the forenoon, I think. I believe that it was done—well, I am not positive of the hour that I took that up the next day, sir.

Q. How was that done? Did you just call on each man to turn in such ammunition as he had?—A. As I recollect it, each man came to the storeroom or to the quartermaster-sergeant and turned over to him the ammunition that he had in excess of 20 rounds.

Q. He simply turned over all he had in excess of 20 rounds?—A. Yes, sir.

Q. And it was left, then, entirely to the man to state how much he had?—A. No, sir; his 20 rounds were inspected.

Q. Yes, I understand; he had the original 20 rounds that he had the night before the shooting?—A. Yes, sir.

Q. Or was supposed to have had?—A. Yes, sir.

Q. The next morning a man simply came up, and you had no record of what he had?—A. No, sir.

Q. And he simply turned in what he said he had?—A. Yes, sir.

Q. Was that correct?—A. Yes, sir.

Q. Did you know at that time how much ammunition you had?—A. Yes, sir.

Q. How much?—A. I can not state positively here. I think it was 8,900 rounds—in that neighborhood.

Q. Was it all that had not been issued in these sealed packages, or did you have any broken packages?—A. There was one box that contained some ammunition in clips that had been left over from target practice.

Q. How much was that, or did you know how much was in that box?—A. The record showed how much should be in this box. I do not at present recollect the exact amount.

Q. How much should be in it?—A. Yes, sir.

Q. You did not know, as a matter of fact, how much was in it?—A. No, sir.

Q. What record was it that showed what should have been in this box?—A. The ordnance return for June 30, 1906, showed how much ammunition we had at the close of the target season.

Q. That showed the ammunition with which your company was chargeable?—A. Yes, sir.

Q. But it did not show, did it, the amount of ammunition that was in that broken box?—A. No, sir; I only found that out when I counted this ammunition and checked my ammunition.

Q. And you found that out on the day after the shooting?—A. Yes, sir.

Q. That was the only way you had of ascertaining the amount that was in that broken box?—A. And by seeing that this total amount checked up with the amount I had on my books.

Q. Yes; that you had some eight thousand and odd rounds altogether?—A. Yes, sir.

Q. That broken box had had taken out of it, had it not, quite a considerable amount of ammunition after this target practice in Nebraska?—A. Yes, sir; I think it had.

Q. It had been opened on more than one occasion and ammunition taken from it, had it not?—A. It was kept in the ordnance storeroom.

Q. Yes; but you had given out ammunition to different persons, had you not, from that broken box?—A. Yes, sir.

Q. So that you had no means of knowing how much ammunition was in that broken box on the night of the 13th of August?—A. I could tell just about how much was in it, because I knew how much had been issued.

Q. You had no record of it, I believe I understood you to say, of what was in that box?—A. I knew that this box had originally contained 1,200 rounds of ammunition, and I knew how much ammunition had been used out of this box for firing on the target range, and therefore I could tell how much should be in it.

Q. When that target practice was completed at Niobrara, how much was in that box?—A. In the neighborhood of a thousand rounds, I think.

Q. In the neighborhood of a thousand rounds. Now, had any been issued out of that box from the time you completed the target practice until you reached Brownsville?—A. Yes, sir; I believe 600 rounds had been issued.

Q. Is there any record of that, or is it merely a matter of memory?—A. No, sir; there should be a record of it in the company papers. This was used by one man, who was practicing on the target range subsequent to the regular target season.

Q. Did you issue any other ammunition to anyone else out of that box?—A. No, sir.

Q. Who was this man to whom you issued this 600 rounds?—A. Artificer Jones—Thomas H. Jones.

Q. I read from page 505 of your testimony taken before the court-martial at San Antonio, Tex., on February 23, as follows:

As I remember my invoice when shipping my ammunition from Fort Niobrara, Nebr., to Fort Brown, Tex., this box was invoiced as containing 500 rounds of ammunition.

Is that correct?—A. That is probably correct, sir.

Q. Now, why did you invoice it as containing 500 rounds of ammunition? Did you have any record to show how much there was?—A. Yes, sir; a record was kept of this, I think, by the quartermaster-sergeant. Each day this man would come and get so many rounds and go out on the target range and fire, and when he returned he would turn in what he had not used to the quartermaster-sergeant, who would make a note of it.

Q. You are testifying to what ought to have been done, are you not? You did not see it done?—A. No, sir; I was not present.

Q. You do not know anything about that, except that is the rule that should have governed it?—A. Yes, sir.

Q. Did you issue any other ammunition out of this box before the 13th of August?—A. Yes, sir; one bandolier was issued to Private Jones on his departure to the rifle competition at Fort Sill. He returned this at Fort Reno when he returned.

Q. How much was in that?—A. Sixty rounds to a bandolier.

Q. And one bandolier was issued to him, you say?—A. Yes, sir.

Q. Then, if you stated before the court-martial that you issued him 120 rounds, you must have been mistaken, were you not? To refresh your recollection about it I will read from the record of the

court-martial, so that you may see what it says. I read from the same page, as follows:

Q. Had you given Jones any other ammunition than that he had used at Fort Niobrara?—A. Yes, sir; when he left for the competition he was given two bandollers of ammunition—120 rounds.

A. Well, I didn't have my records with me then, and I may have been mistaken then or now.

Q. Yes. So that your recollection about the ammunition you really had is not accurate, is it, Lieutenant, or do you have anything to base your judgment on except simply your records which you have since examined?—A. No, sir; it is just as I recollect the case.

Q. Did you know, to recollect accurately, just how much ammunition you had in your company on the 13th of August?—A. Yes, sir; I thought I knew to a round how much I ought to have.

Q. Did you have any surplus ammunition?—A. No, sir; we had no surplus ammunition.

Q. You had no surplus ammunition?—A. We had taken up all surplus ammunition, in accordance with the regulations. You will see the certificate on my report, that all surplus ammunition had been taken up. In other words, there is no surplus ammunition now.

Q. There is none now?—A. No, sir; none since that regulation.

Q. Did you count the ammunition the next morning in all these boxes that you had there, clip by clip?—A. I counted it only in this box where the seal had been broken. In the sealed boxes I did not count it.

Q. You did not count it in the sealed boxes?—A. No, sir.

Q. Did you count each clip in the broken box?—A. Yes, sir; in company with the quartermaster-sergeant. We counted each round in the broken box.

Q. How much did you have in that broken box?—A. I do not at present recollect the exact number of rounds that were in that box. It may have been 400 rounds, or it may have been 500 rounds.

Q. You do not remember?—A. In that neighborhood.

Q. You do not remember how much ammunition any particular soldier returned to you the next morning?—A. No, sir; I do not recollect.

Q. But you estimated that you had the ammunition with which you were chargeable, from the fact that you got, in the aggregate, 1,200 rounds back?—A. Yes, sir; the amount that I was responsible for.

Q. Yes. You do not know, I believe you said, exactly how much was given out the night of the shooting?—A. Well, I would like to change my answer to that last question, if I may.

(The question referred to was read by the stenographer, as follows:)

Q. But you estimated that you had the ammunition with which you were chargeable from the fact that you got, in the aggregate, 1,200 rounds back?

A. My answer should be to that that I checked up the amount I should have in my storeroom after each man had been issued 20 rounds, and also knowing that I had had a sealed box the night before, which must have contained 1,200 rounds.

Senator FRAZIER. That is all.

By Senator PETTUS:

Q. Captain, did you have any information that the new Springfield marked the bullet before this transaction, this shooting at Brownsville?—A. I do not think I understood the question, sir.

Q. Did you have any information that the new Springfield rifle marked the bullet with the number of the gun that it came out of, before this shooting up of Brownsville?—A. No, sir; I do not know it yet.

Q. You do not know it yet?—A. That it marks the bullet, you say?

Q. Yes.—A. I know that the bullet shows the marks of the lands and grooves in the rifle, sir, but that is all that I know.

Q. But you say that you do not know now that a Springfield rifle marks the number of the gun on the bullet—the number of the gun that it comes out of?—A. No, sir; I do not.

Q. Did you not have such information? Did you not hear so—hear that that was the case?—A. No, sir; this is the first time I have ever heard it.

Q. You mean when I asked you the question?—A. Yes, sir.

Q. You never heard of it at all?—A. No, sir.

Q. You never heard it spoken of in the Army at all?—A. No, sir.

Q. And you never got that information in any way until I presented it to you?—A. No, sir.

Q. Now, understand what I mean. I do not mean that it marks the number, but it makes a mark on the bullet which indicates the number of the gun that it came out of.—A. I understand, sir, and I did not know this to be the case.

Q. No; I did not ask you if you knew. I asked you if you heard?—A. No, sir; I never heard, sir.

Senator FORAKER. Senator Pettus, do you mean the bullet or the case—the cartridge shell?

Senator PETTUS. I meant the bullet, that the bullet was marked in that way, that came out of the gun.

Senator BULKELEY. That the rifling marks it—the lands.

The WITNESS. I knew that each bullet fired would show the marks of the lands in the rifle.

By Senator PETTUS:

Q. All rifles do that?—A. Yes, sir; but I didn't know that this would show what particular gun or rifle had fired the bullet. I knew you could tell whether it was a rifle with four lands or six lands or three lands.

Q. No, no; I mean the particular number of the particular gun?—A. No, sir; I did not know this.

Q. I do not mean that it put the number on the bullet.—A. No, sir; I understand.

Q. But it made a mark on the bullet so that the men who made the guns could tell what rifle it came out of. You never heard that before?—A. I never heard that before, sir; before you asked me the question.

Q. Yes. Well, Captain, you spoke of an inspection you held the night of this riot, and you said that there were 7 of the guns that did not suit you as to their condition, and you had the men stand out for future inspection?—A. Yes, sir.

Q. But you never did inspect those rifles at that time—afterwards?—A. No, sir.

Q. You were called off on other duties?—A. Yes, sir.

Q. And you left those 7 men there with their guns?—A. With their guns; in the presence of Major Penrose, sir.

Q. Yes?—A. Yes, sir.

Q. Well, you left them there, and you went off on this duty that you were ordered on?—A. Yes, sir.

Q. You gave the names of three of those men. When did you next see those guns?—A. When these soldiers joined the company in rear of the barracks, after their pieces had been inspected.

Q. Yes. They joined you where you had gone?—A. Yes, sir.

Q. When did you next inspect those guns; I mean make an inspection yourself?—A. I don't recollect positively, sir. We have such an inspection each Saturday, and I suppose the next Saturday after this was the first time I inspected these guns after that morning.

Q. Then the soldiers had from that time—that was Tuesday, was it not?—A. Yes, sir.

Q. They had from Tuesday until Saturday to get their guns in order?—A. Yes, sir.

Q. If they could reach them. Well, they could get their guns out at any time to clean them, could they not?—A. They had them at various times between the 13th or the 14th and the next Saturday.

Q. Yes; but you made no inspection until the next Saturday?—A. No, sir; I do not believe I did, sir.

Q. Will you please tell the committee what condition those guns were in, and describe them as well as you can, as to cleanliness, and as to the indications as to whether they had been shot or not.—A. On the morning of the 13th, when I inspected them?

Senator BULKELEY. On the 13th?

The WITNESS. The 14th.

By Senator PETTUS:

Q. Yes; I mean the guns of those men that you had stood out of ranks to be reinspected?—A. Yes, sir; in my opinion these guns had not been fired. They were not up to the standard. In other words, I could not tell at a glance, or by looking through the barrel, I could not swear that these guns had not been fired, because they were dirty; so I intended to make a more thorough investigation. I did not think at the time that the pieces had been fired. If I had, I would certainly remember the names of all seven of those men.

Q. At that time, Captain, you were thoroughly impressed with the idea that you had been fired on?—A. No, sir. I had changed my mind that morning at reveille when shown a handful of cartridges by Captain Macklin that he said he had picked up in town.

Q. You were satisfied that these cartridges were the new Springfield cartridges?—A. Yes, sir; I did not doubt it.

Senator PETTUS. That is all I care to ask him.

By Senator FORAKER:

Q. Have you ever seen any evidence to indicate that the men were guilty of that firing, except such as you would infer from seeing these clips and empty shells that were shown you by Captain Macklin?—A. No, sir; I have not.

Q. A good deal has been said in interrogation and by way of answer about Sergeant Mingo Sanders. Have you any idea, Lieutenant, that he was guilty of participation in that firing in Brownsville that night?

Senator PETTUS. Senator, is that a proper question?

Senator FORAKER. I think it is a perfectly proper question. He was asked his opinion before.

Senator PETTUS. Yes; he was asked his opinion, but that is an opinion on an abstract thing.

Senator FORAKER. Well, I will ask him whether he has had any evidence at all, whether knowledge of any kind of a fact has been brought to him, to indicate to him that Mingo Sanders had anything to do with shooting up the town of Brownsville. If he has, I want to know what it is.

Senator PETTUS. I object to the question as not only leading, but as irrelevant.

Senator FRAZIER. He said he had not; and then the next question was whether, in his opinion, he was guilty or not.

Senator FORAKER. No; I am calling for his knowledge of any fact that leads him to suspect that Mingo Sanders had anything to do with shooting up the town. I will put a new question.

By Senator FORAKER:

Q. Have you any knowledge of any kind that leads you to suspect that Mingo Sanders had anything to do with shooting up the town of Brownsville that night?—A. No, sir; I have not.

Q. I will ask you, Mr. Lawrason, to look at Circular No. 16, dated "War Department, Washington, March 19, 1906." I will ask you to look at the second paragraph of that and state whether or not that is the order you referred to about taking up surplus ammunition?—A. (After examination of order.) Yes, sir; this is the order. Do you wish me to read it?

Senator FORAKER. I want to call attention to the fact that I put that order in the record on page 19, on the first day of our hearings before this committee, but through some error it is referred to there as General Order 44 of the War Department.

Senator PETTUS. Could you not find an order that prohibited a soldier from shooting a citizen without any provocation?

Senator FORAKER. I think there is a general order to that effect, just as there is a general order prohibiting citizens from shooting soldiers without any provocation.

I want to call attention to the fact that the record at page 19, in referring to this as General Order No. 44, is in error, and I would like to have this inserted again at this place, it being part of Circular No. 16, dated "Washington, March 19, 1906."

(The extract from the order referred to is as follows:)

[Circular No. 16.]

WAR DEPARTMENT,
Washington, March 19, 1906.

2. Hereafter officers accountable for small-arms ammunition will furnish a certificate with each return of ordnance and ordnance stores rendered by them as follows:

"I certify that I have made a careful inventory of the various quantities of small-arms ammunition for which I am accountable, and have taken up on my

return all surplus ammunition on hand, and that said return shows the actual quantities of small-arms ammunition on hand at the end of the period for which it is rendered."

This requirement will not apply to the accountable officers at arsenals and other ordnance establishments who are governed by special regulations on the same subject.

(1110591, M. S. O.)

By order of the Secretary of War:

J. C. BATES.

Lieutenant-General, Chief of Staff.

Official:

F. C. AINSWORTH.

The Military Secretary.

By Senator FORAKER:

Q. It was in accordance with that order that all surplus ammunition was taken up, and that thereafter you attached to all your ordnance returns the certificate to which I called attention yesterday?—

A. Yes, sir.

Q. Now, you say you never heard, until Senator Pettus asked you a moment ago, that the bullets fired out of these rifles were so marked by the firing as to indicate the rifle from which they were fired?—A. No, sir; I never heard that before.

Q. No; I guess nobody else ever did. I never did. But you have always known that the lands would leave marks on the bullet?—A. Yes, sir.

Q. Now, on the next morning after the firing the 1,200 rounds that you had issued the night before, in so far as you had issued it, was all returned?—A. Yes, sir; it was.

Q. Counted up and checked up?—A. Yes, sir.

Q. That left each man with 20 rounds of cartridges?—A. Yes, sir.

Q. And later the 20 rounds were all turned in, and counted and checked up also, as I understood you to say?—A. I believe they were checked up at the time they turned in their surplus, sir. It is my recollection that the whole business was turned in.

Q. Yes.—A. And that they were given back 20 rounds.

Q. Whenever it was, at any rate, that morning or later, the whole amount of ammunition was checked up?—A. Yes, sir.

Q. While you do not know at this time exactly what number of cartridges should have been in that broken case, or should have been in any other particular place, I understand you to say that you do now know that you then knew exactly how many cartridges should have been found?—A. Yes, sir.

Q. And that you found all of them by absolute and accurate count. It was a careful count, was it not?—A. Yes, sir; it was.

Q. Senator Lodge asked you whether or not men could have joined your company without your seeing them. That was all for an opinion, and I will ask you for an opinion. Do you know, or what is your opinion, as to whether or not anybody did join your company except those men who came down out of the barracks from their bunks?—A. All I know, sir, is that men joined the company while I was with it from the barracks. Some few of them slept down-stairs, so that they did not come down the main stairway.

Q. I will ask you whether or not, in your opinion, anybody joined your company who had come running from down town where this firing was going on?—A. I don't believe so, sir.

Q. Have you any knowledge that leads you to suspect that any man in Company B participated in this firing?—A. I have no knowledge that would lead me to suspect any man of this, sir.

Q. Or any man in any of the other companies of the battalion?—A. No, sir.

Q. You said that the sound of the firing was similar to that of high-power rifles. How many kinds of high-power rifle are there that these sounds that you heard might have been similar to the firing of?—A. I would not attempt to say how many kinds there are, sir. There are numerous high-power rifles, of various makes.

Q. Well, was the sound that you heard similar to that which would come from the firing of a Krag rifle, for instance?—A. Yes, sir; it was very similar.

Q. Or of the Winchester rifle?—A. Yes, sir; they use the same ammunition.

Q. Or the Savage rifle?—A. Yes, sir.

Q. All those are high-power rifles?—A. Yes, sir; they are.

Q. You do not pretend to say that the sound you heard indicated anything more than that the firing was by some kind of a high-power rifle?—A. That is what I meant, sir.

Q. Do you know whether, when Sergeant Sanders arrived, he had a gun, or whether he had to go into the barracks to get his gun?—A. He went into the barracks and got his gun and joined the company.

Q. Yes. So that he did not have a gun when he reached the parade ground in front of the quarters, I suppose?—A. No, sir.

Q. You stated that the next morning, after you saw these clips and shells, you came to the conclusion that the men had done this firing. State whether or not you have changed your belief.—A. It seems to me that during the time that has elapsed these men all having been discharged, by this time we should have heard something about who did it; but I know of no direct evidence that has come out to fix it on these men, and I think there is a question—there has certainly one begun to arise in my mind—as to whether the shooting was actually done by the soldiers.

Q. You begin to think now that they may not have been guilty at all, notwithstanding some of these clips and shells may have been picked up?—A. Yes, sir; a question has begun to arise in my mind.

Q. If it should be demonstrated to your satisfaction by the testimony taken before this committee that all the shells picked up that have been produced and examined were fired at some other place than at Brownsville, would not that change your mind entirely on that subject?—A. I would consider it a point in favor of the men, if it did not entirely change my mind.

Q. In that event, the clips and shells would be no evidence at all, would they, of their having participated in the firing?—A. No, sir; I believe that that would counteract that evidence.

Q. Is there any other evidence that you know of that would stand against the men, excepting only those things?—A. That is the only evidence that I know of, sir.

Q. Was there any place in the space between the wall and the sink, behind which you state there were perhaps two of your men posted, where they could clean their guns that night?—A. Will you repeat that question, please?

Q. Could the men who, as I understand, were posted between the wall and the sink, have cleaned their guns that night without you knowing something about it; out there in the dark, I mean?—A. Well, I was walking up the line continually. They would have had to be pretty quick and careful about it, it seems to me, to prevent my seeing them working at them.

Q. I understood you to say that there were three of the men whom you stood out, whom you had stand to one side for reinspection—Leroy Horn, William B. Anderson, and George W. Mitchell. Who was Leroy Horn?—A. In connection with that, I do not believe that man's name was William B. Anderson.

Q. William Anderson, was it?—A. Yes, sir; William Anderson, I think.

Q. Very well.—A. You asked me about Leroy Horn?

Q. Yes. Was he a cook?—A. He was at one time the cook. I am not sure whether he was at this time cook or not. He was reduced, and another man made company cook at about this time.

Q. Do you know of anything in connection with either one of those men, or the condition of the guns of those men, that leads you to think that they had anything to do with the shooting?—A. No, sir; I do not. I did not make the final inspection of the guns.

Q. When you marched your company away, under the orders of Major Penrose, leaving behind the seven men whom you had stood aside for reinspection, they were left there with Major Penrose and Captain Lyon for reinspection, were they not?—A. Yes, sir; they were.

Q. And I understand you to say that while you were not present, you know that these men, one after another, and all of them, joined your company in a few minutes thereafter?—A. Yes, sir; that is so.

Q. You were present when the surplus ammunition was turned in? I have already asked you about that.

Senator BULKELEY. Will you not ask him, Senator, if he had any conversation with Major Penrose or Captain Lyon in regard to this inspection of the guns?

Senator FORAKER. I think I did ask him.

Senator LODGE. That was asked yesterday.

By Senator FORAKER:

Q. Do you know whether or not Major Penrose and Captain Lyon, in fact, did inspect your men, or do you know in any other way than from them, from anybody else, whether they inspected those seven men and passed their guns?—A. I do not recollect positively whether Major Penrose or Captain Lyon reported to me what the result of this inspection was. I know that I found it out in some way—probably from one of them—that they did not think that these pieces had been fired.

Q. You were asked about new recruits. I do not know just what the purpose of that was. Can you tell us the present strength of your company—Company B?—A. The present strength?

Q. Yes.—A. Well, sir, they are filling it up—recruiting it up for the Philippines. I do not know what the present strength of it is.

Q. You have not been present with the company for some time?—A. Not for two months, sir.

Q. You have been at Fort Sam Houston?—A. Yes, sir.

AFFRAY AT BROWNSVILLE, TEXAS.

Q. Now, you were asked whether or not it was not "e I believe (or some equivalent word), at this court-martial that a gun while in the rack might be cleaned. I will anybody testified on that point excepting one man, Serg hardt, of the Twenty-sixth Infantry?

Senator WARNER. I never asked that question. I have tion to it. My question was, in substance, this: If he did lieve, from the court-martial testimony, that it could be done

Senator FORAKER. Oh, yes.

The CHAIRMAN. Now, gentlemen of the committee, I want that it seems to me you are exercising a pretty broad latitude you go into what witnesses think. I do not apply this to a ticular Senator, but I think that we ought to attempt to draw the line a little.

Senator FORAKER. Very well. I am nearly through.

Senator SCOTT. While that testimony is being found in the r I want to ask you a question or two. If I remember correct think you said, on your thinking the matter over, that it took thirty minutes to inspect your company that morning?

A. In the neighborhood of that, I believe, sir.

Q. I believe you testified that you had 43 men?—A. Yes, sir.

Q. In line?—A. Yes, sir; about 43; 41 to 43.

Q. Would it be possible to inspect 43 men in thirty minutes? T is less than a minute to each man.—A. I do not believe that I t as much as a minute to each man, sir. I was inspecting the bores a chambers only. I intended to make a much more thorough insp tion of the pieces that I was doubtful of, the pieces of those men th I stepped out of ranks.

Senator SCOTT. That is all.

Senator FORAKER. I want to put in the record now an extract from the testimony of First Sergt. Earl M. Gebhardt, of the Twenty sixth Infantry, found on pages 531 to 533 of the proceedings before the Penrose court-martial, in which, speaking of the cleaning of a gun while in the gun rack, he testified as follows:

Q. Now, will you kindly look at that rifle in the rack again [witness goes to armrack as requested] and demonstrate to the court whether or not it is possible to clean a rifle so located in a rack.—A. (Witness demonstrates with rack.) With a brass cleaning rod it would be possible to clean it by removing the bolt.

Q. And inserting the rod where?—A. In the breech. It would have to be cleaned from the breech. It could not be cleaned from the end of the barrel at all, and in that way it would be impossible to do so without leaving some at the top and the muzzle.

Would that be your opinion as to cleaning a gun in the gun rack—that there would necessarily be a part of the bore up at the end of the barrel that could not be reached?—A. Yes, sir; the ramrod could not be driven through the muzzle of the gun.

Q. If you were to inspect a gun that had been fired and had been cleaned while in the rack, leaving a short space at the muzzle that had not been touched, would you or not detect that?—A. I think I would detect it, sir.

Senator BULKELEY. I think some one asked the question whether if that gun rack was tipped over on its side it would not be possible to clean the gun in that way.

Senator WARNER. That is the only way they could do it.

By Senator BULKELEY:

th Q. Now, you take that gun rack with 40 or 50 muskets in it in the middle of the night—A. Yes, sir.

W Q. And put in there promiscuously, would it not be a pretty difficult proposition to turn that rack over and turn it around so as to find that gun to be cleaned?

Senator WARNER. I think the rack only holds 20 guns, Senator.

y A. Yes, sir. A man would have to have the help of several comrades, I think.

By Senator BULKELEY:

Q. So that a man could not go out there and put that rack in position and hunt out a gun to be cleaned so that he could clean it even from the chamber?—A. I believe not, sir.

By Senator FORAKER:

Q. Mr. Lawrason, one more question as to Allison's gun. You said you were not certain whether it was in the chest or not. Did you or not refer in that connection to a chest that had been fastened up at Niobrara and which you found under the cots?—A. Yes, sir; that is what I meant.

Q. Or did you refer to some other chest?—A. No, sir; I meant the chests in which the arms were—the rifles.

Q. You stated yesterday that these chests could not, in your opinion, have been opened, in view of the condition in which you found them. Is that still your opinion or not, in view of your inspection of them that night?—A. I did not think that these chests had been disturbed. If they had been, it would have been with considerable difficulty that they were put back in this position.

Q. Would there have been time to have put these guns back in these chests after the firing, in view of your men being out, under your command, behind the wall? Would there have been time, if they had been taken out of these chests, for them to have been returned to the chests?—A. No, sir; I do not believe they would have had time to do this, at all.

Q. You do not remember, as a matter of fact, just where you saw the Allison gun, as I understand you?—A. No, sir; I can not recollect positively about Allison's gun.

Q. You do not recollect that, but you are positive in your recollection that these chests did not seem to you to have been opened since the time you left Niobrara?—A. Yes, sir.

Q. Among other reasons, because you found them still covered with the cosmic oil?—A. Yes, sir.

Q. And fastened down with the cleats in the position in which they were placed before shipment?—A. Yes, sir.

Q. Now, as to whether or not firing had ceased when you reached the company barracks, I understand you to say that the call to arms which you first heard sounded just as you were coming out of your quarters, and that you were not more than a minute getting across to the company barracks. On yesterday you testified as follows:

Senator SCOTT. Lieutenant, when the roll was being called by the first sergeant was there still some firing going on?

The WITNESS. I do not recollect whether any firing went on while the roll was being called. My attention was entirely taken up by the company, and I can not recollect hearing any shots after I had reached the company.

AFFRAY AT BROWNSVILLE, TEXAS.

By Senator FORAKER:

Q. There might have been firing at that time, as far as you need understand it?—A. Yes, sir.

Q. You would not undertake to say that there was not firing at the time?—A. No, sir; I would not.

Do you want to change that statement?—A. No, sir; I listen—at least, I was very busy after reaching the company, and it is possible that shots might have been fired and I would not have heard them.

Q. That was a time of a good deal of excitement for you, as the rest of the people?—A. Yes, sir. I just do not recollect whether there were any shots fired.

Q. And it was a time of unusual responsibility for you?—A. Yes, sir.

Q. That was your first battle?—A. First battle.

Senator FORAKER. The battle of Brownsville.

By Senator SCOTT:

Q. But you thought you were being fired on?—A. Yes, sir.

By Senator FORAKER:

Q. In your testimony before the court-martial I find the following and I read from page 507:

Q. Did you actually see anybody barefooted, or how did you know of this?—A. I saw one man who fell in the front rank, or was about to do so, without shoes on, and I heard conversations taking place in the rear rank, one soldier complaining that he had no shoes on and another saying that it was no time to think about shoes when you are being shot at.

Does that help your recollection any as to whether firing was at that time going on?—A. No, sir; I recollect this conversation, but I do not remember any shots fired after I joined the company.

Q. Then you stand by the statement that you made yesterday, that you simply do not recollect?—A. Yes, sir.

Q. I do not understand you now intend, by the statement you made yesterday, to contradict anybody who says that there was firing after you reached there?—A. No, sir; there might have been. I just did not hear any.

By Senator WARNER:

Q. The fact is, as you have stated, that you heard no firing after you joined the company?—A. I think I stated that I did not recollect hearing any, sir. I would not swear that I did not hear any.

Q. But you have no remembrance of hearing any?—A. I have no remembrance of hearing any.

Q. And in answer to a question by Senator Scott as to whether you thought you were being fired on, you said you were. That was, of course, when you heard the shooting that you thought that?—A. Yes, sir.

Q. You did not think you were being fired on when you did not hear any shooting?—A. No, sir; I don't believe I did.

By Senator FORAKER:

Q. You were asked about the probability of turning in guns to the quartermaster-sergeant without them being carefully cleaned and inspected before they were received. Your own gun was turned in, as it appears from the testimony you have given, without being

carefully cleaned, was it not?—A. Yes, sir. You could tell that it had been fired, I suppose, by a careful cleaning of the barrel.

Q. Well, if it was found to be foul, and not cleaned after having been fired, when it was sent to the arsenal, that is because you turned it in without being cleaned?—A. Yes, sir; without being cleaned; I suppose so.

Senator FORAKER. That is all.

By Senator WARNER:

Q. I want to put this in the record. I do not think there is any controversy about it. I read from page 486 of the court-martial proceedings:

Q. Did the men of the company fall in promptly or did they straggle in?—A. They straggled in; there was a good deal of confusion.

That is correct, is it, as you understand now?—A. Yes, sir.

Q. The next question and answer are as follows:

Q. Tell, if you remember, how long it was after you arrived in front of your company before the last man had taken his place in the ranks?—A. I can only guess at the time. I suppose about five or six minutes.

That is still your remembrance, is it?—A. Yes, sir; about that time, I should say. I really could not tell that.

Q. And the next is:

Q. And how long was this after the first call to arms?—A. I suppose about eight minutes.

That is your remembrance, is it?—A. Yes, sir; somewhere in that neighborhood. I was just guessing at those times. I would like to state again that I have really no idea of the time.

Q. The next is:

Q. And approximately about how long after the first shots you heard?—A. In the neighborhood of eight or nine minutes, I should say, sir.

Q. That is still your judgment?—A. Yes, sir; excepting that now I should say that it was a little less than that. Possibly it might have been ten minutes, but I think a little less.

By Senator SCOTT:

Q. One more question. You say you thought you were being fired on when you fell out?—A. Yes, sir.

Q. While you were calling the roll, and when you marched the company around by the wall, were you still of the opinion that you were being attacked and fired on by some foe, or imaginary foe?—A. No, sir; I was not of opinion that I was being attacked then. I was of the opinion that I had been attacked.

Senator SCOTT. That is better.

Senator FORAKER. He thought the battle was over.

The CHAIRMAN. I would like to ask this question. Perhaps this is pushing it a little too far, but I think that we have pushed our questions rather out of proper limits, perhaps, already. Questions have been asked of this witness which have brought out his opinion as to who did that shooting. I think he said that in the first instance it was his opinion that it was done by men of the regiment; but later he doubts that, because so much time has elapsed and no definite confessions have been made, and he is of a different opinion.

I would like to ask the witness if in the meantime he has formed an opinion as to who did the shooting on that night?

The WITNESS. No, sir; I have not. I believe I have been slightly misunderstood. I meant to convey the idea that at the time, the next morning, after seeing these cartridges, there was no doubt in my mind but that the soldiers had done the shooting. Since that time I do not believe that any material evidence has been brought forward to show that they did, and it seems to me that there should have been by this time, and that we should have heard something about it.

Q. Then that is the reason you have changed your mind?—A. I do not say that I have changed it entirely, sir.

Q. I want to find out if you have in your mind any other source from which this firing came—any definite opinion in your own mind?—A. No, sir; I have formed no definite opinion as to that.

Q. One more question as to the guns you examined in your box; how many did you have in your hands of those guns that were in that box?—A. I took the two upper ones.

Q. So that your personal examination was confined to those two?—A. Yes, sir. I satisfied myself that the others had not been taken out of the box, because there were numerous wooden cleats that held these guns in position below, and they were all in place.

By Senator BULKELEY:

Q. You counted them all?—A. Yes, sir.

Q. You said, in answer to a question, that it was possible for a gun to be charged to a man by the wrong number?—A. Yes, sir; that would be a mistake made by the—

Q. Did you ever know of such a thing occurring, that a gun was charged to a man by the wrong number, in your experience?—A. No, sir; I can not remember such a case.

Q. Of course mistakes are possible, but did you ever know such a mistake to occur?—A. No, sir; I did not.

Senator BULKELEY. That is all.

The chairman here read to the committee a telegram from Senator Culberson, which was as follows:

DALLAS, TEX., March 25, 1907.

Hon. F. E. WARREN,

United States Senate, Washington, D. C.:

I think it is very important for a subcommittee to visit Brownsville.

C. A. CULBERSON.

The chairman also reported to the committee that an invitation had been received on the part of the citizens of Brownsville for the committee to visit that city during its deliberations.

(Thereupon, at 4.30 o'clock p. m., the committee adjourned until to-morrow, Friday, March 29, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, March 29, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF WALKER M'CURDY (COLORED)—Recalled.

(The witness, who had been heretofore duly sworn, was reminded by the chairman that he was still under oath.)

By Senator FORAKER:

Q. Sergeant, you testified, when you were on the stand before, that you were the quartermaster-sergeant of Company B of the Twenty-fifth Infantry while it was at Brownsville in August, 1906. That is correct, is it?—A. Yes, sir.

Q. How long had you been quartermaster-sergeant?—A. I was made quartermaster-sergeant—Captain Shattuck made me quartermaster-sergeant—about the 9th or 10th of June. I don't remember the exact date, but I think it was about the 9th or 10th of June.

Q. Who had been quartermaster-sergeant prior to that date?—A. Sergt. William Blaney.

Q. What book is that in front of you there? See if you recognize it.—A. This is the company's property book, sir.

Q. The company property book of Company B?—A. Yes, sir.

Q. Will you turn to that and see what gun Sergeant Blaney had assigned to him, according to that book, when these new Springfield rifles were issued?—A. (Examining book.) I think it was 45683.

Q. 45683?—A. Yes, sir.

Q. Now, it has been testified to, I believe, that Sergeant Blaney was absent on furlough. When did he go away on furlough?—A. It was about the same time I was made quartermaster-sergeant—about the 9th or 10th of June.

Q. That is, you succeeded him when he went away on furlough?—A. Yes, sir.

Q. Had he returned while you were yet at Brownsville? When did he return?—A. He returned at El Reno.

Q. He was not with you at Fort Brown at all?—A. No, sir.

Q. What was done with his gun when he left to go on furlough the 9th of June, or whatever date it was?—A. He took it up and packed it away.

Q. He turned it in?—A. No, sir; he turned in his own rifle. He will tell you himself that when he returned there was a slip of paper put in the chamber to show whose rifle it was, to keep me from issuing it to anyone else.

Q. Who put that in there?—A. I put it in there myself.

Q. What was on that slip of paper?—A. "William Blaney."

Q. Now, when he returned, were you still with the company?—A. Yes, sir.

Q. At El Reno?—A. Yes, sir.

Q. And you were still quartermaster-sergeant?—A. Yes, sir.

Q. And did you continue as quartermaster-sergeant?—A. Until I was discharged, sir.

Q. Until you were discharged?—A. Yes, sir.

Q. Now, what was done in the matter of providing Sergeant Blaney with a gun?—A. I gave him his same rifle back.

Q. You gave him back that same rifle?—A. Yes, sir.

Q. What does the company book show there as to what ultimately became of it?—A. The company property book only shows here that it was checked off. At least it is struck out now, because it was checked off.

Q. Look at the number of the gun and see whether there are some initials placed over the number?—A. No, sir; only "O. K." here, when it was turned in.

Q. What is that written over the number [indicating on book]?—A. That is the captain's check mark.

Q. That is "C. C. K."?—A. It is "O. K."

Q. No; "C. C. K."—A. That is the captain's check mark, of Captain Kinney. He could tell you. He did that himself.

Q. The gun was turned in. You were quartermaster-sergeant when the gun was turned in?—A. Yes, sir.

Q. State whether or not when the guns were turned in Captain Kinney was captain of the company.—A. Yes, sir.

Q. And his name is C. C. Kinney?—A. Yes, sir.

Q. State whether or not he checked up every number?—A. He had that book and he checked it up.

Q. Can you tell us where that gun, No. 45683—is that the number?—A. 45683, I think it is, sir. [Examining book.] There is a check over it, but I think that is what it is, No. 45683.

Senator WARNER. That is the number you gave.

Senator FORAKER. Yes.

By Senator FORAKER:

Q. Well, it is the number that is there. State where that gun was on the night of the 13th of August, 1906.—A. It was in the arm chest, sir, in the company.

Q. In the arm chest?—A. Yes, sir.

Q. Was the arm chest open or closed?—A. It was closed, sir.

Q. Where was the arm chest?—A. It was in the storeroom.

Q. How long had it been in that arm chest, and who had placed it there?—A. I placed it there at Fort Niobrara.

Q. At Niobrara?—A. Yes, sir.

Q. It was one of the guns that were in your charge? It was one of a number in your charge at that time, was it?—A. Yes, sir.

Q. You have already testified that you packed up in arm chests all the guns you had charged to you?—A. All the surplus guns that were not in the hands of the men, sir.

Q. You have a clear, positive, distinct recollection of that fact, have you?—A. Yes, sir.

Q. You can not be mistaken about it?—A. No, sir.

Q. It was No. 45683? That was the number?—A. Yes, sir.

Q. Now, it has been shown in the proof here that Ernest Allison—I believe it was Ernest—is that his name?—A. Yes, sir. We had a man named Ernest Allison.

Q. That he was discharged a day or two before this firing?—A. I don't know, but I think it was only one or two days before this happened.

return all surplus ammunition on hand, and that said return shows the actual quantities of small-arms ammunition on hand at the end of the period for which it is rendered."

This requirement will not apply to the accountable officers at arsenals and other ordnance establishments who are governed by special regulations on the same subject.

(1110591, M. S. O.)

By order of the Secretary of War:

J. C. BATES,

Lieutenant-General, Chief of Staff.

Official:

F. C. AINSWORTH,

The Military Secretary.

By Senator FORAKER:

Q. It was in accordance with that order that all surplus ammunition was taken up, and that thereafter you attached to all your ordnance returns the certificate to which I called attention yesterday?—

A. Yes, sir.

Q. Now, you say you never heard, until Senator Pettus asked you a moment ago, that the bullets fired out of these rifles were so marked by the firing as to indicate the rifle from which they were fired?—A. No, sir; I never heard that before.

Q. No; I guess nobody else ever did. I never did. But you have always known that the lands would leave marks on the bullet?—A. Yes, sir.

Q. Now, on the next morning after the firing the 1,200 rounds that you had issued the night before, in so far as you had issued it, was all returned?—A. Yes, sir; it was.

Q. Counted up and checked up?—A. Yes, sir.

Q. That left each man with 20 rounds of cartridges?—A. Yes, sir.

Q. And later the 20 rounds were all turned in, and counted and checked up also, as I understood you to say?—A. I believe they were checked up at the time they turned in their surplus, sir. It is my recollection that the whole business was turned in.

Q. Yes.—A. And that they were given back 20 rounds.

Q. Whenever it was, at any rate, that morning or later, the whole amount of ammunition was checked up?—A. Yes, sir.

Q. While you do not know at this time exactly what number of cartridges should have been in that broken case, or should have been in any other particular place, I understand you to say that you do now know that you then knew exactly how many cartridges should have been found?—A. Yes, sir.

Q. And that you found all of them by absolute and accurate count. It was a careful count, was it not?—A. Yes, sir; it was.

Q. Senator Lodge asked you whether or not men could have joined your company without your seeing them. That was all for an opinion, and I will ask you for an opinion. Do you know, or what is your opinion, as to whether or not anybody did join your company except those men who came down out of the barracks from their bunks?—A. All I know, sir, is that men joined the company while I was with it from the barracks. Some few of them slept downstairs, so that they did not come down the main stairway.

Q. I will ask you whether or not, in your opinion, anybody joined your company who had come running from down town where this firing was going on?—A. I don't believe so, sir.

Q. Have you any knowledge that leads you to suspect that any man in Company B participated in this firing?—A. I have no knowledge that would lead me to suspect any man of this, sir.

Q. Or any man in any of the other companies of the battalion?—A. No, sir.

Q. You said that the sound of the firing was similar to that of high-power rifles. How many kinds of high-power rifle are there that these sounds that you heard might have been similar to the firing of?—A. I would not attempt to say how many kinds there are, sir. There are numerous high-power rifles, of various makes.

Q. Well, was the sound that you heard similar to that which would come from the firing of a Krag rifle, for instance?—A. Yes, sir; it was very similar.

Q. Or of the Winchester rifle?—A. Yes, sir; they use the same ammunition.

Q. Or the Savage rifle?—A. Yes, sir.

Q. All those are high-power rifles?—A. Yes, sir; they are.

Q. You do not pretend to say that the sound you heard indicated anything more than that the firing was by some kind of a high-power rifle?—A. That is what I meant, sir.

Q. Do you know whether, when Sergeant Sanders arrived, he had a gun, or whether he had to go into the barracks to get his gun?—A. He went into the barracks and got his gun and joined the company.

Q. Yes. So that he did not have a gun when he reached the parade ground in front of the quarters, I suppose?—A. No, sir.

Q. You stated that the next morning, after you saw these clips and shells, you came to the conclusion that the men had done this firing. State whether or not you have changed your belief.—A. It seems to me that during the time that has elapsed these men all having been discharged, by this time we should have heard something about who did it; but I know of no direct evidence that has come out to fix it on these men, and I think there is a question—there has certainly one begun to arise in my mind—as to whether the shooting was actually done by the soldiers.

Q. You begin to think now that they may not have been guilty at all, notwithstanding some of these clips and shells may have been picked up?—A. Yes, sir; a question has begun to arise in my mind.

Q. If it should be demonstrated to your satisfaction by the testimony taken before this committee that all the shells picked up that have been produced and examined were fired at some other place than at Brownsville, would not that change your mind entirely on that subject?—A. I would consider it a point in favor of the men, if it did not entirely change my mind.

Q. In that event, the clips and shells would be no evidence at all, would they, of their having participated in the firing?—A. No, sir; I believe that that would counteract that evidence.

Q. Is there any other evidence that you know of that would stand against the men, excepting only those things?—A. That is the only evidence that I know of, sir.

Q. Was there any place in the space between the wall and the sink, behind which you state there were perhaps two of your men posted, where they could clean their guns that night?—A. Will you repeat that question, please?

Q. Could the men who, as I understand, were posted between the wall and the sink, have cleaned their guns that night without you knowing something about it; out there in the dark, I mean?—A. Well, I was walking up the line continually. They would have had to be pretty quick and careful about it, it seems to me, to prevent my seeing them working at them.

Q. I understood you to say that there were three of the men whom you stood out, whom you had stand to one side for reinspection—Leroy Horn, William B. Anderson, and George W. Mitchell. Who was Leroy Horn?—A. In connection with that, I do not believe that man's name was William B. Anderson.

Q. William Anderson, was it?—A. Yes, sir; William Anderson, I think.

Q. Very well.—A. You asked me about Leroy Horn?

Q. Yes. Was he a cook?—A. He was at one time the cook. I am not sure whether he was at this time cook or not. He was reduced, and another man made company cook at about this time.

Q. Do you know of anything in connection with either one of those men, or the condition of the guns of those men, that leads you to think that they had anything to do with the shooting?—A. No, sir; I do not. I did not make the final inspection of the guns.

Q. When you marched your company away, under the orders of Major Penrose, leaving behind the seven men whom you had stood aside for reinspection, they were left there with Major Penrose and Captain Lyon for reinspection, were they not?—A. Yes, sir; they were.

Q. And I understand you to say that while you were not present, you know that these men, one after another, and all of them, joined your company in a few minutes thereafter?—A. Yes, sir; that is so.

Q. You were present when the surplus ammunition was turned in? I have already asked you about that.

Senator BULKELEY. Will you not ask him, Senator, if he had any conversation with Major Penrose or Captain Lyon in regard to this inspection of the guns?

Senator FORAKER. I think I did ask him.

Senator LODGE. That was asked yesterday.

By Senator FORAKER:

Q. Do you know whether or not Major Penrose and Captain Lyon, in fact, did inspect your men, or do you know in any other way than from them, from anybody else, whether they inspected those seven men and passed their guns?—A. I do not recollect positively whether Major Penrose or Captain Lyon reported to me what the result of this inspection was. I know that I found it out in some way—probably from one of them—that they did not think that these pieces had been fired.

Q. You were asked about new recruits. I do not know just what the purpose of that was. Can you tell us the present strength of your company—Company B?—A. The present strength?

Q. Yes.—A. Well, sir, they are filling it up—recruiting it up for the Philippines. I do not know what the present strength of it is.

Q. You have not been present with the company for some time?—A. Not for two months, sir.

Q. You have been at Fort Sam Houston?—A. Yes, sir.

Q. Now, you were asked whether or not it was not "established," I believe (or some equivalent word), at this court-martial hearing, that a gun while in the rack might be cleaned. I will ask you if anybody testified on that point excepting one man, Sergeant Gebhardt, of the Twenty-sixth Infantry?

Senator WARNER. I never asked that question. I have no objection to it. My question was, in substance, this: If he did not believe, from the court-martial testimony, that it could be done.

Senator FORAKER. Oh, yes.

The CHAIRMAN. Now, gentlemen of the committee, I want to say that it seems to me you are exercising a pretty broad latitude when you go into what witnesses think. I do not apply this to any particular Senator, but I think that we ought to attempt to draw in the line a little.

Senator FORAKER. Very well. I am nearly through.

Senator SCOTT. While that testimony is being found in the record, I want to ask you a question or two. If I remember correctly, I think you said, on your thinking the matter over, that it took you thirty minutes to inspect your company that morning?

A. In the neighborhood of that, I believe, sir.

Q. I believe you testified that you had 43 men?—A. Yes, sir.

Q. In line?—A. Yes, sir; about 43; 41 to 43.

Q. Would it be possible to inspect 43 men in thirty minutes? That is less than a minute to each man.—A. I do not believe that I took as much as a minute to each man, sir. I was inspecting the bores and chambers only. I intended to make a much more thorough inspection of the pieces that I was doubtful of, the pieces of those men that I stepped out of ranks.

Senator SCOTT. That is all.

Senator FORAKER. I want to put in the record now an extract from the testimony of First Sergt. Earl M. Gebhardt, of the Twenty-sixth Infantry, found on pages 531 to 533 of the proceedings before the Penrose court-martial, in which, speaking of the cleaning of gun while in the gun rack, he testified as follows:

Q. Now, will you kindly look at that rifle in the rack again [witness goes to armrack as requested] and demonstrate to the court whether or not it is possible to clean a rifle so located in a rack.—A. (Witness demonstrates with a brass cleaning rod it would be possible to clean it by removing the breech plug.)

Q. And inserting the rod where?—A. In the breech. It would be cleaned from the breech. It could not be cleaned from the end of the barrel at all, and in that way it would be impossible to do so without getting at the top and the muzzle.

Would that be your opinion as to cleaning a gun in the rack, that there would necessarily be a part of the bore up the barrel that could not be reached?—A. Yes, sir; that part could not be driven through the muzzle of the gun.

Q. If you were to inspect a gun that had been cleaned while in the rack, leaving a short space of the barrel had not been touched, would you or not detect it?—A. Yes, I would detect it, sir.

Senator BULKELEY. I think some one asked whether or not that gun rack was tipped over on its side, so that you could clean the gun in that way.

Senator WARNER. That is the only way

Q. Could the men who, as I understand, were posted between the wall and the sink, have cleaned their guns that night without you knowing something about it; out there in the dark, I mean?—A. Well, I was walking up the line continually. They would have had to be pretty quick and careful about it, it seems to me, to prevent my seeing them working at them.

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Senator WARNER. I never asked that question. I have no objection to it. My question was, in substance, this: If he did not believe, from the court-martial testimony, that it could be done.

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Q. Now, will you kindly look at that rifle in the rack again [witness goes to armrack as requested] and demonstrate to the court whether or not it is possible to clean a rifle so located in a rack.—A. (Witness demonstrates with rack.) With a brass cleaning rod it would be possible to clean it by removing the bolt.

Q. And inserting the rod where?—A. In the breech. It would have to be cleaned from the breech. It could not be cleaned from the end of the barrel at all, and in that way it would be impossible to do so without leaving some at the top and the muzzle.

Would that be your opinion as to cleaning a gun in the gun rack—that there would necessarily be a part of the bore up at the end of the barrel that could not be reached?—A. Yes, sir; the ramrod could not be driven through the muzzle of the gun.

Q. If you were to inspect a gun that had been fired and had been cleaned while in the rack, leaving a short space at the muzzle that had not been touched, would you or not detect that?—A. I think I would detect it, sir.

Senator BULKELEY. I think some one asked the question whether if that gun rack was tipped over on its side it would not be possible to clean the gun in that way.

Senator WARNER. That is the only way they could do it.

By Senator BULKELEY:

Q. Now, you take that gun rack with 40 or 50 muskets in it in the middle of the night—A. Yes, sir.

Q. And put in there promiscuously, would it not be a pretty difficult proposition to turn that rack over and turn it around so as to find that gun to be cleaned?

Senator WARNER. I think the rack only holds 20 guns, Senator.

A. Yes, sir. A man would have to have the help of several comrades, I think.

By Senator BULKELEY:

Q. So that a man could not go out there and put that rack in position and hunt out a gun to be cleaned so that he could clean it even from the chamber?—A. I believe not, sir.

By Senator FORAKER:

Q. Mr. Lawrason, one more question as to Allison's gun. You said you were not certain whether it was in the chest or not. Did you or not refer in that connection to a chest that had been fastened up at Niobrara and which you found under the cots?—A. Yes, sir; that is what I meant.

Q. Or did you refer to some other chest?—A. No, sir; I meant the chests in which the arms were—the rifles.

Q. You stated yesterday that these chests could not, in your opinion, have been opened, in view of the condition in which you found them. Is that still your opinion or not, in view of your inspection of them that night?—A. I did not think that these chests had been disturbed. If they had been, it would have been with considerable difficulty that they were put back in this position.

Q. Would there have been time to have put these guns back in these chests after the firing, in view of your men being out, under your command, behind the wall? Would there have been time, if they had been taken out of these chests, for them to have been returned to the chests?—A. No, sir; I do not believe they would have had time to do this, at all.

Q. You do not remember, as a matter of fact, just where you saw the Allison gun, as I understand you?—A. No, sir; I can not recollect positively about Allison's gun.

Q. You do not recollect that, but you are positive in your recollection that these chests did not seem to you to have been opened since the time you left Niobrara?—A. Yes, sir.

Q. Among other reasons, because you found them still covered with the cosmic oil?—A. Yes, sir.

Q. And fastened down with the cleats in the position in which they were placed before shipment?—A. Yes, sir.

Q. Now, as to whether or not firing had ceased when you reached the company barracks, I understand you to say that the call to arms which you first heard sounded just as you were coming out of your quarters, and that you were not more than a minute getting across to the company barracks. On yesterday you testified as follows:

Senator SCOTT. Lieutenant, when the roll was being called by the first sergeant was there still some firing going on?

The WITNESS. I do not recollect whether any firing went on while the roll was being called. My attention was entirely taken up by the company, and I can not recollect hearing any shots after I had reached the company.

By Senator FORAKER:

Q. There might have been firing at that time, as far as you recollect, do you understand it?—A. Yes, sir.

Q. You would not undertake to say that there was not firing at that time?—A. No, sir; I would not.

Do you want to change that statement?—A. No, sir; I did not listen—at least, I was very busy after reaching the company, and it is possible that shots might have been fired and I would not have heard them.

Q. That was a time of a good deal of excitement for you, as we all understand it?—A. Yes, sir. I just do not recollect whether there were any shots fired.

Q. And it was a time of unusual responsibility for you?—A. Yes, sir.

Q. That was your first battle?—A. First battle.

Senator FORAKER. The battle of Brownsville.

By Senator SCOTT:

Q. But you thought you were being fired on?—A. Yes, sir.

By Senator FORAKER:

Q. In your testimony before the court-martial I find the following, and I read from page 507:

Q. Did you actually see anybody barefooted, or how did you know of this?—A. I saw one man who fell in the front rank, or was about to do so, without shoes on, and I heard conversations taking place in the rear rank, one soldier complaining that he had no shoes on and another saying that it was no time to think about shoes when you are being shot at.

Does that help your recollection any as to whether firing was at that time going on?—A. No, sir; I recollect this conversation, but I do not remember any shots fired after I joined the company.

Q. Then you stand by the statement that you made yesterday, that you simply do not recollect?—A. Yes, sir.

Q. I do not understand you now intend, by the statement you made yesterday, to contradict anybody who says that there was firing after you reached there?—A. No, sir; there might have been. I just did not hear any.

By Senator WARNER:

Q. The fact is, as you have stated, that you heard no firing after you joined the company?—A. I think I stated that I did not recollect hearing any, sir. I would not swear that I did not hear any.

Q. But you have no remembrance of hearing any?—A. I have no remembrance of hearing any.

Q. And in answer to a question by Senator Scott as to whether you thought you were being fired on, you said you were. That was, of course, when you heard the shooting that you thought that?—A. Yes, sir.

Q. You did not think you were being fired on when you did not hear any shooting?—A. No, sir; I don't believe I did.

By Senator FORAKER:

Q. You were asked about the probability of turning in guns to the quartermaster-sergeant without them being carefully cleaned and inspected before they were received. Your own gun was turned in, as it appears from the testimony you have given, without being

court-martial, so that you may see what it says. I read from the same page, as follows:

Q. Had you given Jones any other ammunition than that he had used at Fort Niobrara?—A. Yes, sir; when he left for the competition he was given two bandollers of ammunition—120 rounds.

A. Well, I didn't have my records with me then, and I may have been mistaken then or now.

Q. Yes. So that your recollection about the ammunition you really had is not accurate, is it, Lieutenant, or do you have anything to base your judgment on except simply your records which you have since examined?—A. No, sir; it is just as I recollect the case.

Q. Did you know, to recollect accurately, just how much ammunition you had in your company on the 13th of August?—A. Yes, sir; I thought I knew to a round how much I ought to have.

Q. Did you have any surplus ammunition?—A. No, sir; we had no surplus ammunition.

Q. You had no surplus ammunition?—A. We had taken up all surplus ammunition, in accordance with the regulations. You will see the certificate on my report, that all surplus ammunition had been taken up. In other words, there is no surplus ammunition now.

Q. There is none now?—A. No, sir; none since that regulation.

Q. Did you count the ammunition the next morning in all these boxes that you had there, clip by clip?—A. I counted it only in this box where the seal had been broken. In the sealed boxes I did not count it.

Q. You did not count it in the sealed boxes?—A. No, sir.

Q. Did you count each clip in the broken box?—A. Yes, sir; in company with the quartermaster-sergeant. We counted each round in the broken box.

Q. How much did you have in that broken box?—A. I do not at present recollect the exact number of rounds that were in that box. It may have been 400 rounds, or it may have been 500 rounds.

Q. You do not remember?—A. In that neighborhood.

Q. You do not remember how much ammunition any particular soldier returned to you the next morning?—A. No, sir; I do not recollect.

Q. But you estimated that you had the ammunition with which you were chargeable, from the fact that you got, in the aggregate, 1,200 rounds back?—A. Yes, sir; the amount that I was responsible for.

Q. Yes. You do not know, I believe you said, exactly how much was given out the night of the shooting?—A. Well, I would like to change my answer to that last question, if I may.

(The question referred to was read by the stenographer, as follows:)

Q. But you estimated that you had the ammunition with which you were chargeable from the fact that you got, in the aggregate, 1,200 rounds back?

A. My answer should be to that that I checked up the amount I should have in my storeroom after each man had been issued 20 rounds, and also knowing that I had had a sealed box the night before, which must have contained 1,200 rounds.

Senator FRAZIER. That is all.

By Senator PETTUS:

Q. Captain, did you have any information that the new Springfield marked the bullet before this transaction, this shooting at Brownsville?—A. I do not think I understood the question, sir.

Q. Did you have any information that the new Springfield rifle marked the bullet with the number of the gun that it came out of, before this shooting up of Brownsville?—A. No, sir; I do not know it yet.

Q. You do not know it yet?—A. That it marks the bullet, you say?

Q. Yes.—A. I know that the bullet shows the marks of the lands and grooves in the rifle, sir, but that is all that I know.

Q. But you say that you do not know now that a Springfield rifle marks the number of the gun on the bullet—the number of the gun that it comes out of?—A. No, sir; I do not.

Q. Did you not have such information? Did you not hear so—hear that that was the case?—A. No, sir; this is the first time I have ever heard it.

Q. You mean when I asked you the question?—A. Yes, sir.

Q. You never heard of it at all?—A. No, sir.

Q. You never heard it spoken of in the Army at all?—A. No, sir.

Q. And you never got that information in any way until I presented it to you?—A. No, sir.

Q. Now, understand what I mean. I do not mean that it marks the number, but it makes a mark on the bullet which indicates the number of the gun that it came out of.—A. I understand, sir, and I did not know this to be the case.

Q. No; I did not ask you if you knew. I asked you if you heard?—A. No, sir; I never heard, sir.

Senator FORAKER. Senator Pettus, do you mean the bullet or the case—the cartridge shell?

Senator PETTUS. I meant the bullet, that the bullet was marked in that way, that came out of the gun.

Senator BULKELEY. That the rifling marks it—the lands.

The WITNESS. I knew that each bullet fired would show the marks of the lands in the rifle.

By Senator PETTUS:

Q. All rifles do that?—A. Yes, sir; but I didn't know that this would show what particular gun or rifle had fired the bullet. I knew you could tell whether it was a rifle with four lands or six lands or three lands.

Q. No, no; I mean the particular number of the particular gun?—A. No, sir; I did not know this.

Q. I do not mean that it put the number on the bullet.—A. No, sir; I understand.

Q. But it made a mark on the bullet so that the men who made the guns could tell what rifle it came out of. You never heard that before?—A. I never heard that before, sir; before you asked me the question.

Q. Yes. Well, Captain, you spoke of an inspection you held the night of this riot, and you said that there were 7 of the guns that did not suit you as to their condition, and you had the men stand out for future inspection?—A. Yes, sir.

Q. That was turned in to you on Sunday?—A. Well, when he was discharged.

Q. You didn't put that up in a corner of the storeroom?—A. No, sir.

Q. You are quite clear about that?—A. Yes, sir.

Q. But you got one of those arm chests out?—A. I didn't have to get them out, because they were setting there loose with nothing in them.

Q. What do you say?—A. All of them were setting there except the ones that had the arms in them, and they had my bunks piled on them. They were setting right by the door.

Q. You say they were sitting there. You only had two arm chests with guns in them?—A. That is what I say. I put this in the third one.

Q. In the third one?—A. Where the six-shooters were.

Q. And were not these six-shooters in the same chest with these odd guns?—A. No, sir.

Q. Have you not so testified?—A. If I did, it is wrong; because the arm chests—there never was a gun in there with the six-shooters until I put this man Allison's gun in there. I just unscrewed it and laid that in there. I think he turned it in on a Saturday; if I recollect he turned it in on a Saturday morning, right after the inspection.

Senator WARNER. I think you looked at that date and found that it was the 12th.

Senator FORAKER. I think it was the 12th.

The WITNESS. If you are discharged, they would let you turn in on the 11th.

By Senator WARNER:

Q. You had three arm chests in there?—A. Oh, I had seven; but I had three that were in use.

Q. You shipped those empty arm chests from Fort Niobrara to Fort Brown?—A. They were not empty, but—

Q. How did you carry those arm chests; what did you put in them?—A. I put cleaning materials and sheets, and pillowcases, and anything else to fill them up.

Q. Yes. Now, this third arm chest which had the pistols in it?—A. Yes, sir.

Q. Are you quite clear about that?—A. Yes, sir.

Q. What other guns did you put in there?—A. I don't remember putting any gun in there.

Q. Did you examine that gun when you put it in?—A. Yes, sir; I examined it. Any time a man turns in a gun to me I will examine and see if it is all right.

Q. Did you examine the bore?—A. I looked through it to see if it was clean.

Q. Was it clean?—A. Yes, sir; in my judgment.

Q. Was there any defect on it?—A. Not that I saw, sir. I never noticed any.

Q. You say that Lieutenant Lawrason opened those chests?—A. No, sir; I opened them.

Q. In his presence?—A. Yes, sir; by his direction.

Q. By his direction?—A. Yes, sir.

Q. And when was that?—A. On the morning of the 14th.

Q. How late in the morning?—A. I would judge between 3 and 4 o'clock; I am not sure. I know it was after the troops were dismissed.

Q. Was it not after daylight?—A. No, sir; because I had to have a lantern to go through there. I had to light my lantern to go through there.

Q. And it was between 3 and 4 o'clock?—A. That is what I would judge it to be. I might be wrong there, but that is what I judged, as near as I could get at it. I know it was after we were dismissed, and I judge we were dismissed about 2, or something like that.

Q. When was it, with reference to the time, if at all, that he examined the guns in the gun racks?—A. I don't know. I am satisfied that he had counted the guns in the gun racks, and then he wanted to count the ones in the storeroom.

Q. Did you go with him to the gun racks?—A. Not upstairs, sir.

Q. You did not go up there at all?—A. No, sir.

Q. But it was after the time that he counted the guns in the gun racks?—A. After he completed that he came down and counted the guns in the storeroom.

Q. Whatever time that was.—A. Yes, sir; I judged it to be about between 3 and 4 o'clock. I am not sure.

Senator WARNER. That is all.

By Senator FOSTER:

Q. When did the rifle-range practice begin at Fort Niobrara?—A. I think it was about the beginning of May.

Q. And when did it close?—A. I think it was completed about the 15th of July.

Q. The 15th of July?—A. Yes, sir.

Q. Did all of your company engage in that target practice?—A. All that was present, sir.

Q. How many rounds of ammunition were issued by you to your company for the purpose of target practice?—A. I couldn't tell that, sir.

Q. During that target practice?—A. Daily we sent out so much.

Q. Did you not keep a record of all you sent out?—A. Yes, sir; every day; I would keep a record of every round I sent out. I had it counted out to them, and then counted up what was returned.

Q. How did you keep that record?—A. I would just make a note, just the same as I would take a piece of paper and make a note, and I would drop it into this book.

Q. Where did you make a note?—A. On a piece of paper, and dropped it into this book.

Q. Every day you were required to send out so much ammunition for target-practice purposes, and you kept a record of the number of cartridges you sent out?—A. Yes, sir.

Q. Where is that record?—A. I don't know; I just used to keep it on a slip of paper.

Q. What became of that slip of paper?—A. I don't know; I guess I tore that up, because it was no good to anyone.

Q. Was that filed away?—A. No, sir. That was for my own information, to see how much there was sent out to the range and how much was sent back.

Q. Now, when the ammunition was returned, did you keep a record of the ammunition returned?—A. Yes, sir.

Q. You checked it up; at least did you count it up?—A. Yes, sir.

Q. Did you keep a record of the shells fired?—A. I would go to the target report for that. If I was not satisfied my ammunition was correct, I would go to the target report and I could tell how many rounds we had fired.

Q. Did you keep a record of the number of shells that were returned to you and the number of ball cartridges returned to you?—A. I counted my cartridges; I did not count the shells.

Q. Did you keep a record of that?—A. I only kept it on a slip of paper, as I stated.

Q. That slip of paper has been lost or destroyed?—A. Oh, probably it is destroyed. I left lots of them in the storeroom, where my record was kept.

Q. Kept in a book?—A. No, sir; just put it in this company property book.

Q. On a slip of paper?—A. Yes, sir.

Q. Then you kept a record of the number of cartridges returned, but not a record of the number of shells returned?—A. No; you lose shells right along, you know.

Q. Each day of the target practice were the shells collected?—A. Yes; they were supposed to be.

Q. That was expected of—A. That was required of me; that was the general rules, you know.

Q. What was done with these shells?—A. They were decapped and cleaned and returned to the arsenal.

Q. Were they decapped and cleaned on the ground?—A. As soon as we had a decapper we did.

Q. Was that the rule?—A. Yes, sir.

Q. That they were decapped and cleaned on the ground?—A. That was the regulations.

Q. I am not speaking of the regulations; but was that the rule at the target practice?—A. That was carried out under that heading.

Q. That they were decapped and cleaned upon the ground?—A. Yes, sir.

Q. And after being decapped and cleaned, what was done with those shells?—A. They were packed away in loose boxes and shipped back to the arsenal.

Q. Were they returned to you as ordnance officer?—A. Out on the grounds they would bring them to me every evening.

Q. Would bring those empty shells every day—they were brought back to you?—A. Yes, sir.

Q. What did you do with them?—A. I would dry them and pack them away in boxes.

Q. In what kind of boxes?—A. Ammunition boxes, the same that we received the ball cartridges in.

Q. Was any record kept of those shells, the number?—A. Only when we went to ship them.

Q. You kept, then, a record of the number of shells you shipped?—A. Yes, sir.

Q. How many shells did you ship from Fort Niobrara?—A. I think it is between sixteen and eighteen thousand; I am not sure. I *don't know now*.

Q. Where is the record of that?—A. The record of it is at the company; they have the receipts there.

Q. The company record shows the number of shells?—A. That were shipped before we left Fort Niobrara. How many, I don't know. It shows the number of bandoliers and shells.

Q. Does this company book show it?—A. No, sir.

Q. What kind of a book is that kept in?—A. That record is not kept in any book at all. It is just the returns, the receipts.

Q. Who returned the shells when they were delivered to you; to whom did you return them—deliver them?—A. I returned them to the ordnance officer at Fort Niobrara.

Q. Did you have any receipt?—A. Yes; my company commander receipted.

Q. Did you have any receipt of the number of empty shells that you delivered to the ordnance officer?—A. Yes; they are in the company now, if they have not done away with them.

Q. Is there a book kept for that purpose?—A. No book at all; just your receipts, your vouchers.

Q. Those vouchers will show the number of shells that were returned by you to the ordnance officer?—A. Yes, sir.

Q. How were those shells packed for shipment?—A. Just packed in loose boxes. They want them loose; they do not want them packed tight.

Q. Were they not packed in the same boxes in which they were received?—A. In the same kind of boxes, but they are not packed in bandoliers, as we received them; we just threw them in there loose.

Q. How many decapped shells did you receive from the target ground at Fort Niobrara?—A. That would depend on how many—I think I just related to you that I shipped about 16,000 or 18,000, I think.

Q. They are decapped when they are shipped?—A. Yes; I can not ship them without being decapped. The regulation requires you to decap and clean the shells before they can be shipped back to the arsenal.

Q. And every shell which had been decapped you returned?—A. I returned except until my primer was broken—my decapper.

Q. That would not be a decapped shell?—A. No, sir.

Q. Did you ever have your decapper broken before?—A. No; because we had to file this one down to fit from the Krag rifle to fit the Springfield, and that made it easier to break.

Q. Haven't they a regular decapper for the Springfield?—A. We did not have at that time. They have had one now. We did not have it at that time, at the beginning of the target season.

Q. When they sent this ammunition—guns and ammunition—the Department failed to send you a decapper for the Springfield rifle?—A. They failed to send it because you will have to make out a requisition yourself for those things.

Q. Then you made no requisition for a decapper for the Springfield?—A. We did, sir.

Q. When did you make it?—A. I don't know exactly when we made it, but I know we did not get it until after the target practice was completed.

Q. I understood you just now to say—I may have been mistaken—that you only made it out at the latter part of the target practice.—

A. They made it, but the target practice was completed when we received it.

Q. Did they make it out at the beginning of the target practice?—A. No, sir.

Q. They only made it out after?—A. Afterwards. Everybody was under the opinion that the same decapper we had that belonged to the Krag would fit the Springfield, but it was a great mistake.

Q. How long had you had the Springfield rifle before you began your range practice?—A. Oh, I guess we had it about two months. I think we received it in March.

Q. Had you at that time returned your Krag rifle and ammunition to the Department?—A. No; we had not; at least, about the time we come to target practice we returned it.

Q. At the time you began target practice is it not a fact that you had turned the Krag rifle and all the ammunition belonging to that rifle back to the Government?—A. As I recollect, I could not say when, because I was not quartermaster-sergeant at that time and I don't know what they did.

Q. Did you keep the Krag rifle and the Springfield rifle at the same time?—A. No, sir.

Q. In your company?—A. We had the Krag a little while after we got the Springfield. We had them a time before they commenced using the Springfield, because we did not have ammunition and they would not allow us to use it for duty until we got the ammunition.

Q. When did you get the ammunition?—A. I don't know, sir; I could not tell exactly when it was.

Q. Was it not required of you to return with the Krag rifle all of the ammunition and equipments of that rifle when you returned it to the Government?—A. We did, sir.

Q. Was not that a regulation?—A. Yes, sir.

Q. And that you should return the rifle?—A. Everything pertaining to that model we had to return.

Q. If that be so, why was not the decapper of that rifle sent back?—A. We sent back the decapper that was for that, but we had an extra one.

Q. You had an extra decapper?—A. Yes, sir.

Q. That belonged to the—A. That belonged to the company.

Q. Belonged to the company?—A. The company individually. I am not sure that it does not belong to the Government when I say that.

Q. How did the company get an extra decapper?—A. I don't know, sir, where they got it, but we had two.

Q. Where did you get it from?—A. I say we had two. I don't know, sir. It was there when I went there.

Q. You had two decappers for the Krag, and you sent one back and kept the other?—A. Yes, sir.

Q. Was not that Government property?—A. Government property, but probably the company got it; I don't know where they got it.

Q. Where did you get it?—A. It was in the company when I was made quartermaster-sergeant.

Q. Was it not required of you, when you were returning those rifles and everything that belonged to those rifles and pertaining to *them*, that you should likewise return the decapper?—A. I returned

everything. If you were my company commander, I will pack up everything that you are responsible for, and no more.

Q. Were you not responsible for both of those decappers?—A. No; there was not but the one on my company commander's paper, and one is all I had to ship.

Q. One decapper, then, on the company's papers?—A. That is what the company records show. That is the only decapper the company commander is responsible for, and he is responsible for all the property in the company.

Q. Who did the other decapper belong to?—A. It belonged to the company individually—personal property.

Q. When you received the Springfield rifle and the ammunition, don't the company records show, just as they would show in the Krag instance, that there was a decapper for it also?—A. They would show you everything; but remember, sir, when we shipped this rifle we did not have any decapper. We had to make out a requisition for that to the Springfield Arsenal afterwards.

Q. I am asking you that question. You shipped a decapper when you received a Krag and the Krag ammunition?—A. I don't know as they did, because I was not the quartermaster-sergeant when it was received.

Q. You say the company's books show that?—A. His vouchers and receipts would show what he received.

Q. I understood you to say that the company books show it and you were only liable for one decapper?—A. That is what I mean to say. The record shows that.

Q. You had two decappers and one of them belonged to the company and you only returned one as Government property?—A. That is all we did.

Q. And when you received your consignment of Springfields and the ammunition belonging to the Springfields, did you not at the same time receive a decapper as part and parcel of that consignment?—A. No, sir.

Q. Why not?—A. Because that is extra equipment pertaining to that rifle, and you would have to make a requisition to the arsenal for it.

Q. Then the decapper is extra?—A. Yes; all that is extra.

Q. You have to send a requisition for it?—A. A special requisition for it.

Q. When you received those rifles, and the decapper being necessary to carry on your drill there and carry out the regulations in so far as decapping the shells was concerned, why didn't you send on then for a requisition, and not wait until the latter part of July to send on for one?—A. Well, I could not tell you that. That is the officer's business. I don't know anything about that.

Q. Whose business is that?—A. That is the company commander's business.

Q. He knew you had no decapper?—A. Why, yes.

Q. Now, if you had not had that extra decapper belonging to the Krag, you would have been in a bad fix?—A. Certainly. There was companies there that would have to borrow the one that we filed down. I filed down one belonging to the Krag.

Q. You say other companies there had to borrow one?—A. Why, all of that third battalion used to borrow—

Q. To borrow that one decapper?—A. No; borrow from all of them down the line. Lots of them did the same as we did.

Q. How do you mean?—A. That is, anyone that had one, that had made them over again, filed them down.

Q. So that other men had decappers filed down?—A. Yes; the same as my company.

Q. What company?—A. Company B.

Q. Did C Company have one?—A. I don't remember, because C had a new one before the season was completed, because I remember that. That was the first company I saw with it.

Q. Whom did you refer to when you say that certain of them would borrow that decapper?—A. Probably like M Company would borrow mine, until I got it broken, the days I was not using it.

Q. Any other company?—A. I don't remember any others. Any of them would go and borrow it when I was not using it, the same as sometimes I would go and borrow two or three if I could, if I had lots of firing to do and I wanted to get those shells decapped. I would go down to any other company that did not have decapping to do and I would borrow from them.

Q. Then you would borrow their decapper?—A. Yes; to get my shells decapped.

Q. They would lend it you freely?—A. Why, yes; the companies would lend anything they have got like that for an accommodation.

Q. You had no difficulty in getting it when you wanted it?—A. Why, no, sir.

Q. If that be true, McCurdy, why, when this decapper of yours got out of fix, didn't you go out and borrow somebody's decapper?—A. They are just like D Company was. There is none of these shells that had been decapped, and you could not borrow nothing from them.

Q. You said you could borrow these decappers?—A. They were in the same shape that I was. They had saved up a lot of shells and wanted to get them decapped before they left, and turn them in.

Q. Why did they not decap those shells on the ground, according to the regulations?—A. I don't know why they did not; but I believe—

Q. They had a decapper?—A. I think they must have had. I think most of the companies had them.

Q. They did not have the same difficulty that you did, having a broken decapper?—A. Oh, yes; I think I Company's was broken or never had any. I think M Company was the only one out of the whole third battalion you could get a decapper from after K Company got hers broken.

Q. There seemed to be a simultaneous breaking of the decappers, then?—A. Yes, sir.

Q. All kind of broke at the same time?—A. No; I do not say at the same time, but after filing them down they were easy to break.

Q. Well, did you try to borrow any decapper after yours had been damaged—injured?—A. After mine got broken I did not try to borrow any one from anybody, because it was about the end of the season anyway, and I did not care to borrow one.

Q. Had that ever happened to you before, that at the end of the season you would just take up the shells without having them decapped?—A. No, sir.

Q. Well, other companies failed to decap their shells, too?—A. Oh, yes; I don't think there was a company there but what had lots of shells to decap before they had left there.

Q. Why didn't they decap them?—A. Lots of them, when they first started in at the beginning of the season, they did not know about the filing of this spindle down to make it fit the Springfield cartridge; but after one company did it, as a consequence of that they all took it up.

Q. I understand you, then, if I am correct, that when this target practice began none of these companies had a Springfield decapper?—A. No; they did not.

Q. All had a Krag?—A. Of the whole eight companies not a one had a Springfield decapper.

Q. They had to file down the decapper of the Krag?—A. From the old Krag.

Q. Some of the companies did not know how to do that, but got on to that plan, and at the beginning of the target season they had a great many shells?—A. And everybody had accumulated lots of shells they could not decap.

Q. What became of those shells—do you know?—A. After they began to decap them all those they could not decap they carried them with them.

Q. Did C Company carry any of its undecapped cartridges?—A. I don't know whether they did or not. I could not say that any company carried any outside of my own company, but I know they had lots of them boxed up, because D Company had unpacked all of the shells there they had not decapped, and whether they decapped them all or not, I do not know, sir.

Q. Have you any record of your company now of the number of the undecapped shells?—A. No; there is no record kept of that.

Q. When you received those undecapped shells, did you keep a record of the number that you received?—A. Lots of shells that were returned to me?

Q. Yes; that had not been decapped.—A. No, sir.

Q. You kept a record of the decapped shells?—A. Did not keep a record of any kind of shells at all—not empty shells.

Q. I thought you stated at first that you did.—A. I only kept a record of the ball ammunition—the ammunition is all I kept a record of. The shells we paid no attention to.

Q. I understood you, and if I am mistaken correct me, that in your examination a few moments ago you stated that you kept a kind of record on a separate slip of paper of all of the decapped shells that had been brought back to you.—A. No; of all of the ammunition, I said, that I had sent out.

Senator SCOTT. It was ammunition he said he kept on the slips of paper; not the shells.

Senator FRAZIER. The balls that were returned to him.

Senator SCOTT. Yes; that is what he said; not the shells.

By Senator FOSTER:

Q. Didn't you tell me that you kept a record or note on some document of the number of decapped shells which you sent to the ordnance officer?—A. That is in the company. You have to send to the company to get that.

Q. I say you kept that?—A. Yes; they have got it. They have got to get a receipt for every shell that they return to the arsenal, because they get so many balls of ammunition, so many rounds of ammunition, in return for the shells they return to the arsenal.

Q. Then you never kept any record of the number of those undecapped shells?—A. Only until they are shipped, sir.

Q. Did you ever count them?—A. Count them when they are shipped.

Q. Have you ever counted them?—A. No, sir.

Q. The number of shells in that box?—A. Not until we get ready to ship them to the arsenal again.

Q. And you approximate that number at about how much?—A. Well, I don't know.

Q. Fifteen or sixteen thousand, I think you stated?—A. Sixteen or eighteen thousand, I said, we shipped last fall.

Senator FORAKER. That they shipped to the arsenal. I think you are asking about the number in the box.

Senator FOSTER. Yes; I am asking about the number in the box.

A. I think I put about 1,500 or 1,600 in the box. I am not sure—that is, in this ammunition box—to be shipped back to the arsenal. I don't know exactly how many.

Q. Not one of those shells had been decapped?—A. Every one that you ship back to the arsenal has been decapped.

Q. I mean in that box of that 1,600.—A. Oh, about fifteen or sixteen hundred that I carried to Brownsville; none of those had been decapped, because I did not have any decapper, and that is the reason I did not ship them. That is, if I understand what you mean.

Q. That is right; that is what I mean.—A. I had no decapper; it was broken.

Q. Then those shells must have been returned to you by the 15th or 16th of July, as the target-range practice was over at that time?—A. I think we closed the target practice about the 15th of July.

Q. Then if the target-range practice had closed on the 16th of July when ought those shells have been placed in your hands?—A. Probably the last two or three days—the shells that were fired—probably they might have been the first shells that were fired. I don't know how many shells I had there.

Q. When ought you to have received them if the target practice closed on the 15th of July?—A. All my shells were in by the last day of the practice; all the shells that I have got.

Q. By the last day of the practice all the shells decapped and undecapped shells were in your possession?—A. Everything except the post competition, which was generally held on the latter part of the month.

Q. When did you arrive at Brownsville—your company?—A. I arrived there about the latter part of July.

Q. About the 28th of July was it not?—A. Yes, sir.

Q. Well, you say it would have taken you about two or three days to decap those shells?—A. It would take me about two days; that is, if a man worked.

Q. Then you had from the 15th to the 22d or 23d of July to decap those shells?—A. I did not have any decapper, so I did not try to decap them.

Q. Couldn't you have borrowed that?—A. I did not try any more after mine got broke. After I could not lend, I did not try to borrow.

Q. What did you borrow a decapper for before your decapper was broken?—A. When I was made quartermaster-sergeant, about the 9th or 10th of June, no shells had practically been decapped, and I wanted to catch up.

Q. Well, about the 9th or 10th of June, when you were made quartermaster-sergeant, none of the shells of your company then had been decapped, you say?—A. Very few.

Q. And then you borrowed a lot of decappers?—A. Any time I could catch the other companies that was ahead.

Q. Why were none of your shells decapped until about the 10th or 12th of June?—A. I don't know, sir.

Q. Your target practice began in May?—A. In May, sir.

Q. And up to the time of your appointment, I understand you to say that the shells that—A. There had not been but a very few decapped, probably fourteen or fifteen hundred. I don't know whether there was that many.

Q. Then you did get an accumulation?—A. Yes, sir.

Q. Of undecapped shells on hand at the 10th or 12th of June?—A. Yes, sir.

Q. Senator Pettus wishes to know if you had to change that decapper of the Krag to use it in decapping the shells of the Springfield?—A. We had to file it down, sir. The same decapper we had for the Krag would not fit the Springfield, only when you filed it down.

Q. What decapper had been used in your company up to about the 10th or 12th of June?—A. We were still using the old Krag; the Krag decapper.

Q. You were using the Krag decapper. Why couldn't you have kept up the decapping process if you had used the same?—A. They would break after you filed them down.

Q. The decapper would break?—A. Yes; after you would file them down to fit the Springfield they would break very easy.

Q. Then the decapper which had been used by your company had been broken?—A. Yes, sir.

Q. And for that reason they were unable to decap?—A. Yes, sir.

Q. Well now, McCurdy, you stated just now that you only had one decapper with your company?—A. That is, one after we had been shipped the Springfield; only one.

Q. After you had been shipped the Springfield, you only had one?—A. Yes, sir.

Q. Now you stated that one of them was broken, and I suppose you had to use another one when that was broken.—A. Oh, after ours was broken we could not get any more. That is the reason we had about 1,500 or 1,600 shells to carry away with us. Ours was broken and we did not borrow any more. As long as ours was not broken we borrowed.

Q. You stated just now, if I understood you correctly, that your decapper was broken before the 10th of June, and for that reason you had a lot of undecapped shells—A. No; they had never filed that down. I wish to correct that. We had never made one up to that time. They had not filed the old one down from the Krag,

because I carried it down. I was the first man to carry it down to the blacksmith's shop and file it down myself.

Q. Then you practically had no decapper?—A. We did not have any at all.

Q. From May until June 10 or 12?—A. No; because we had all of our shells except a very few—I don't know whether they are decapped or not.

Q. How many shells would you say had accumulated from the target practice beginning in May up to the 10th or 12th of June?—A. I could not tell you, sir, because I have not any idea.

Q. You had a large number, did you?—A. Yes, sir.

Q. You had no decapper, and you could not decap them?—A. No, sir.

Q. Now, when were those cartridges decapped by you? I mean the shells which you found that had not been decapped up to the 10th or 12th of June?—A. I commenced just as soon as I carried that old spindle to the shop and cut it down—filed it down and put in a new pin—I commenced to decap them. How many had accumulated I could not tell.

Q. Who did that?—A. I did it myself.

Q. Then your decapper which you filed down about the 10th or 12th of June and used afterwards also broke?—A. Yes, sir.

Q. About how long after you had begun to use it?—A. Well, the target practice was pretty nearly over before it broke, because I only had 1,500 or 1,600 shells. I might have had more or I might have had less—I could not say. I know I could not decap them on account of breaking the decapper.

Q. Now, these shells were placed by you in a box? These shells which had not been decapped were placed in a box and shipped from Fort Niobrara to Fort Brown?—A. Yes, sir.

Q. What had become of the shells which had accumulated from May until the 10th or 12th of June which had not been decapped?—A. Those were the only ones I could possibly ship from Fort Niobrara.

Q. You stated quite a number of shells had accumulated from the beginning of the target practice in May up to the 10th or 12th of June, when you took charge?—A. Yes, sir.

Q. Which had not been decapped. Now, what had become of those shells?—A. We turned them over to the ordnance department at Fort Niobrara, all those that were decapped.

Q. As soon as you got an instrument with which you could decap these shells, you began right away to decap them?—A. I began right away.

Q. It was your duty, was it?—A. Yes, sir.

Q. Why did you not decap these 1,500 or 1,600 shells, having from the 15th of July until you left Fort Niobrara?—A. Because my decapper was broken, and I did not borrow any. All the rest of the companies had packed up their shells to carry them with them until they got the order, and they only had a very slight time to turn them in, and everybody got busy and wanted to decap the shells, and I could not borrow any other decapper any more.

Q. Did you try to borrow one?—A. Yes, I did.

Q. What kind of a decapper did you have when you got to Brownsville?—A. I don't know. That box was not opened at Brownsville.

Q. What kind of a decapper did you have?—A. Did not have any; only what was in that box. We had a regular Springfield decapper, but that box of ordnance that we had received at Fort Niobrara had never been opened. It had just been received a few days before, and we had orders to pack it and leave it; it never had been opened—just shipped the original package; never was opened until we got to El Reno.

Q. Did you find in that a decapper?—A. Yes, sir.

Q. How many?—A. One.

Q. You were unable to borrow any decapper from the 15th of July up to the time you left Fort Niobrara?—A. Yes, sir. Everybody wanted their own decapper, because lots of them had fooled around until they were in a pinch, and they had to leave those shells there. They could not carry them away, and they had to decap them and clean them.

Q. Under the rules and regulations of the Army is your company required to return the shells of the cartridges?—A. Yes, sir. You go out here and fire 10 rounds this morning, go out on the range in a competition, and this man is given 10 or 20 rounds, and they require you to return the shells. Lots of times they do not do it, but they are required to do it.

Q. Then it was your duty as quartermaster-sergeant to return to the Government these 1,500 or 1,600 shells which had been placed in this box and which had not been decapped?—A. It was my duty to keep them when I had orders from my company commander to do so.

Q. Was it not your duty to account to the Government for those shells after you had received them and they were placed in your custody?—A. I was only accountable to my company commander.

Q. You were accountable to your company commander?—A. Yes, sir.

Q. For those 1,500 or 1,600 shells put by you in that box?—A. They never put no certain amount of shells on it, because lots of times you go out on the range and you do not get all the shells returned to you.

Q. Is that a frequent occurrence?—A. Why, yes. Often you go out here and make a skirmish run, say, this morning, and you give out 40 rounds or 20 rounds, and probably you get back 10 shells. Fifteen or twenty men come back with 10 shells and they have fired 20 rounds, and you can not hold me responsible for it, sir.

Q. I think that is right, but after you get the shell, after the shell is delivered to you, then you are responsible to the company commander?—A. After I get that, and he will ask me how many shells I got, and I will say I got so many, and that is about all he will ever ask me.

Q. When you received those 1,500 or 1,600 shells which had not been decapped, then you were responsible to your commanding officer for the safe-keeping of those shells, were you not?—A. Well, to be honest with you, and I trust you will look at it in the same way, who will think anything about a shell? I want to ask you that. Who cares anything about an empty shell? Its value is so little. Go here to the War Department and you will see for yourself that the value is so small that no man in the world would care anything about it.

Q. The Government sometimes looks after those small matters.—
A. Small matters, we know, sometimes mount up to millions; but

you take a common shell, and who will place any value on it? But a very few people will ever want it. Even the Government does not want it. They allow us so much ammunition for a thousand rounds, and that is all they allow us for extra practice.

Q. I think you present a very good argument, but that is not exactly answering my question.—A. I am trying to answer it.

Q. When these shells were received by you as quartermaster-sergeant, then you were responsible for the safe-keeping of those shells?—A. They were under my thumb to take care of them.

Q. That was your duty?—A. To take care of them, the same as I would of any other property.

Q. Did you lock them up, or nail them up in a secure box?—A. I nailed them up in a box and the box got broke.

Q. Did you nail them up in a secure box?—A. Yes; it was a strong box; I judged so at the time, but any box will get broken in transportation.

Q. And in transporting this box it was broken?—A. Yes, sir.

Q. When did you discover that this box was broken?—A. On the day that it was brought from the station.

Q. Was it broken sufficiently to allow anyone to get in and put his hand in there?—A. Oh, yes; there was about 10 inches of the box, the whole width of the box, busted in.

Q. The whole width or length of the box?—A. The whole length of the box was broken in.

Q. That being so, and you being responsible for the safe-keeping of that box, did you not then have to put it in a perfectly safe place?—A. No; because the empty shells were not required. They are valuable to nobody; nobody paid any attention to it; nobody would think anybody would want a shell. I do not think you would think yourself that anybody would want to take an old empty shell from me.

Q. Then you, seeing this Government property in this box which had been broken and being responsible for it, put it out in an exposed place. Is that what I understand?—A. I wish you to understand me clearly, sir, if you please, and here is the idea. The only concessions we get out of those shells, the only thing there is in it for us at all, is if we save those shells we get so many rounds of extra ammunition for so many thousands that we turn in. If not, we are not required to do it. I wish you had a copy of the Regulations here and you would see. If you do this you can get extra ammunition and if you do not save them you do not get anything.

Senator BULKELEY. They are not charged to anybody?

A. No; you are just that much out yourself if you do not save them. The Government does not care whether you save them or not.

Senator FOSTER. You care whether you save them or not?

A. I did because that would give us an extra number of rounds to fire on the range.

Q. What else did you leave on that porch of barracks B? Was that the only thing you left out there?—A. I might have left some tent pins out there. I did leave my tents out there for a while, until I got straightened out.

Q. You saw this box every day on the porch?—A. It sat right to the left of my door. You know how the barracks are situated there.

B Company's barrack—it sat right to the right of the door as you went in from the ground floor.

Q. You left some tents there?—A. Yes; I had some tents out there for several days.

Q. Did you put them in the storeroom afterwards?—A. After I got straightened up, the tents and everything I put in the storeroom.

Q. Did you put this box of empty shells in the storeroom?—A. Yes; after I got straightened out.

Q. In the same condition in which you had left it on the gallery?—A. Yes, sir.

Q. Would you judge the same number of shells were in it?—A. I did not take any note of it. I did not pay any attention to it. I did not guess anyone would pay any attention to it. Who would ever have thought about anybody wanting a shell? I never give it a thought myself.

Q. You had a guard on duty all the time there, didn't you?—A. After we had been there; but we had been there several days before we put a guard on—that is, a guard that walked around the quarters. We were there several days.

By Senator FORAKER:

Q. Do you remember of Captain Shattuck going off on some special duty in April or May at Fort Niobrara?—A. Yes, sir.

Q. What was it?—A. I don't know. I think he went to San Francisco.

Q. At the time of the earthquake there?—A. Yes, sir.

Q. He was sent there on a special duty, was he?—A. Yes, sir.

Q. Can you fix the date just when that was?—A. No; I could not give you just when it was.

Q. It was about that time?—A. Some time in April.

Q. Did he return to Fort Niobrara from there before he came on to Washington?—A. Yes, sir.

Q. Can you tell what time he left you for Washington?—A. No, sir; I could not say, but I know it was some time in July, but what time I could not tell.

Q. In July, was it not?—A. Yes, sir.

Q. Well, we will get the date in some other way.—A. Because I know I went down and packed all of his furniture and everything for him, but what time it was I don't remember.

Q. You know you had packed up everything and he had left before the battalion went to Fort Brown?—A. Yes; but what time he left I could not tell you.

Q. Can you tell us how long before you left Fort Niobrara you commenced packing up and getting ready to leave?—A. When I was made quartermaster's sergeant in June, the first thing Captain Shattuck told me—he said, "You commence packing up your stuff; get it together."

Q. It had already been announced that you would have to go to Fort Brown?—A. Yes; the captain told me to pack up everything and get everything packed up.

By Senator WARNER:

Q. What else was there in that box—that foot locker—excepting the shells?—A. Nothing, sir.

Q. You are quite sure about that?—A. Yes; I am sure.

Q. There were no clips in that box?—A. Oh, now, speaking about clips, they might have been there with the shells, because we gather the shells and clips and pour them in together.

Q. Were there clips in that box?—A. Oh, yes; those clips, with the shells, go in. They were there.

Q. You think there were clips in there?—A. I don't think anything about it; I know there were.

Q. Was there anything else?—A. No; only the clips and the shells. But I understand you at first—

Q. About how many clips were in there?—A. I guess about the same number of clips as shells.

Q. One thousand five hundred or 1,600 clips?—A. No; there could not have been that many, because there were five shells to one clip.

Q. You were saving the clips to send back to the arsenal?—A. Yes, sir.

Q. They were required to be sent back by the regulations?—A. Yes; that is, they advised you to send them back.

Q. You think some of them were in there?—A. I don't think anything about it; I know they were in there.

Q. Now, the keys—you had a key to the gun rack upstairs?—A. Oh, no, sir.

Q. The first sergeant had that?—A. The man in charge of the quarters had that.

Q. You knew that the first sergeant had one set of keys and the man in charge of the quarters had another set of keys?—A. No, sir; that is something new to me. The man in charge of the quarters is supposed to have all of the keys. If he did, that is something new to me. I don't know.

Q. Well, the evidence in the case will show that.

By Senator FORAKER:

Q. The clips and shells are both picked up on the target range where they fall?—A. Yes, sir.

Q. Required to be?—A. Yes, sir.

Q. Both turned in together and both cleaned together?—A. Both turned in together and we separate them when we come to clean the shells.

By Senator BULKELEY:

Q. Do you get any allowance for clips, the same as you do for shells?—A. No, sir.

Q. Of ammunition?—A. Bandoliers and clips you do not get anything for. You can just ship them if you want to, but you do not get anything for them. You only get ammunition in return for old shells, empty shells.

By Senator FOSTER:

Q. Now, can you approximate how many days that box of shells remained on the porch?—A. They could not stay there only four or five days at the outside; I think that that would be safe; I am not sure; I was not paying any attention, but just as soon as I got my ordnance and everything unpacked, I moved everything even to my tents and tent poles and pins and everything, I moved them on the porch.

Q. Or in the storeroom?—A. Yes, sir.

Q. For which you had the key?—A. Yes, sir.

Q. Did you decap those shells after you reached Fort Brown?—

A. No, sir.

Q. Did you take those shells back with you to El Reno?—A. Yes, sir.

Q. Did you take them in the same box?—A. No, sir.

Q. What kind of a box did you take them in?—A. I took them back in another one of the company's foot lockers, in a different box.

Q. Where are those shells now?—A. I guess they are at El Reno; I left them there; I do not know.

Q. You never sent them on here?—A. No; they had never been decapped and cleaned, and they have all got to be decapped and cleaned before you send them to the arsenal. If you send them there in their present condition you would not get anything for them.

By Senator FRAZIER:

Q. You remember how many boxes you had of a somewhat similar size to this, in which you had these shells that were shipped to Fort Brown from Fort Niobrara?—A. Sixty-five.

Q. Sixty-five boxes?—A. This is an old extra one I had, but 65 is what we had.

Q. You think 65 boxes?—A. Sixty-five what they call "foot lockers," that set at the foot of every man's bunk.

Q. You shipped them all together down to Fort Brown?—A. Yes, sir.

Q. Were any of them bursted besides this one?—A. Oh, lost their stuff by boxes being bursted.

Q. Do you remember about which ones were bursted?—A. I don't know. All I know is I took the artificer around, and he fixed them up.

Q. Did you have any other box out on the porch there that bursted at the time this was bursted, that you saw?—A. Oh, we had lots of boxes that come there bursted, but I had taken all of those that had anything of value in them right into the storeroom.

Q. The only bursted box you left out was the one that had these shells in?—A. Those shells. I did not know anybody would care anything about them; at least that is what we would think, and the chances are that nobody would.

Q. That is the only one that you left out?—A. Yes; outside of my tentage, and things like that.

Senator BULKELEY. Did these locker boxes belong to the men?—A. Sixty-five locker boxes; yes, sir. Each man in the company was issued one.

Q. Would those go into the storeroom?—A. No; they would take charge of them themselves. I had nothing to do with them after I issued them.

Q. Each man took charge of his own box?—A. Yes; he was responsible for it and not I.

By Senator FRAZIER:

Q. Was this box full of empty shells?—A. No; it was not full. I had made it 1,500 or 1,600, I don't know.

Q. What proportion did it fill the box?—A. In proportion to its being full, I judge that it would not be over two-thirds full.

Q. Your statement that there were 1,500 or 1,600 shells and clips was a mere estimate?—A. Yes; I had nothing to go by.

Q. And after you moved it into the storeroom and put them in another box, you did not count them or take any record of them at all?—A. No, sir.

Q. You could not tell whether they had been disturbed?—A. I could not tell whether there was one cartridge gone or a hundred, because I did not count them when I put them in there.

Q. So far as you know, they were exactly in the same condition when you put them in the storeroom as when you shipped them?—A. As far as I know. Of course they looked to me the same, but I could not say.

Q. That is all.

(At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee (at 2 o'clock p. m.) resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, Pettus, Foster, and Frazier.

TESTIMONY OF SECOND LIEUT. HARRY S. GRIER, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Are you in the Army?—A. I am.

Q. What organization do you belong to?—A. The Twenty-fifth U. S. Infantry.

Q. Were you connected with that regiment in August last, when it was at Fort Brown?—A. Yes, sir.

Q. What is your rank in the Army?—A. Second lieutenant.

Q. How long have you been in the Army?—A. Eight years this coming June, including four years' cadet service.

Q. At West Point?—A. Yes, sir.

Q. How long did you serve with the Twenty-fifth Infantry?—A. Almost four years.

Q. That is down to this time. Where did you join the regiment?—A. At Fort Niobrara, Nebr.

Q. Were you connected with any company while you were with the regiment, or were you on the staff of the regiment?—A. I was with A Company of the Twenty-fifth Infantry from September, 1903, until February 13, 1905.

Q. Then what position?—A. Since that time I have been on staff duty—quartermaster and commissary.

Q. On what kind of duty were you in August, 1906, when this shooting affray occurred?—A. I was quartermaster and commissary of the post and also acting adjutant.

Q. You were acting as adjutant of the battalion?—A. Yes, sir.

Q. Where were you quartered at that time? There is a map to the left of you. If you will look at it a moment I think you will understand it. I will ask Senator Bulkeley if he will explain it to you?

(Senator Bulkeley explained the map to the witness.)

A. The buildings are numbered backward, but this is the house that I lived in. It is marked "6" on here.

Q. It is the fourth building up from the Rio Grande River?—A. Yes, sir.

Q. About the center of the line of officers' quarters?—A. Yes, sir.

Q. You were occupying that that night, were you, when the firing commenced?—A. I was in my house, sleeping.

Q. What awakened you?—A. I was awakened by what I thought were two pistol shots.

Q. Can you tell from where they seem to have been—the firing—at what location?—A. Yes; they seemed to be back over here in the rear of B Company barracks.

Q. Outside or inside of the wall?—A. I could not state.

Q. You were in the officers' quarters. Were you upstairs or downstairs?—A. Upstairs.

Q. You only heard the sound coming from that general direction?—A. That is the idea.

Q. It seemed to you to be somewhere over in the rear of B quarters?—A. Yes, sir.

Q. When you heard those shots what did you do? Go ahead and tell us as near as you can in your own way just what you can recollect of the occurrences that night.—A. Well, I don't know whether I heard the first shots fired or not, but when the shots wakened me I jumped out of bed and got on a few clothes and got my revolver and ammunition and got outside.

Q. You went downstairs?—A. Yes; and just as I was going downstairs I heard the commanding officer, Major Penrose, call over to the musician of the guard to sound the call to arms.

Q. Where did Major Penrose seem to be at that time when he gave that order?—A. He seemed to be about out here in front of his own quarters and approximately in front of the guardhouse, out on the parade there somewhere.

Q. And his command was to the guardhouse to sound the call to arms?—A. Yes, sir.

Q. Had there been any order before that time or any call to arms before that time sounded?—A. No, sir.

Q. That was the first. What did you do when you came down out of your quarters?—A. Well, it was my duty as adjutant of the post to report to the commanding officer in such event, and I endeavored to find him.

Q. Where did you find him?—A. Over in front of B Company barracks.

Q. I will ask you first whether or not you had your family with you in the quarters that night.—A. Yes, sir.

Q. Did you take any precautions as to their safety?—A. Yes; when I came down I took my wife and baby to these quarters here.

Q. That is to the next adjoining quarters?—A. Yes, sir; just about 15 yards.

Q. About how far is that from the quarters in which you were stopping?—A. About 15 yards.

Q. That would be 45 or 50 feet?—A. Yes, sir.

Q. Who occupied those quarters?—A. Captain Lyon.

Q. Did he have his family with him?—A. Yes, sir.

Q. You took your wife and child there?—A. Yes, sir.

Q. Then what did you do?—A. Then I struck right straight across, and there is a walk goes right across here toward this B barracks.

Q. That is the walk from the quarters you occupied?—A. No; from Captain Lyon's quarters.

Q. Across to C barracks?—A. I started across here and I got about here—that is 10 or 15 yards on the parade—and I heard somebody running toward me in the dark, and that shooting was still going on, and I was not taking any chances, so I halted him with my revolver and asked him who it was, and it was Sergeant Harley, the acting first sergeant of C Company.

Q. What did he say or do?—A. I asked him what the trouble was over there in the barracks, and he said the men said the barracks were being fired into, and I said, "If that is the case, what are you doing over here?" and he said, "I am going to get my captain."

Q. Who was his captain?—A. Captain Macklin.

Q. What did you say to him?—A. I said "All right; go ahead."

Q. Did he go on?—A. Yes, sir.

Q. Passing you?—A. Yes, sir.

Q. Then what did you do?—A. Then I went straight over from there, calling out Major Penrose's name, and ran into him about here, right between those two barracks. He was already over there.

Q. That is to say, you turned a little to the left of a line leading directly to C Company?—A. Yes.

Q. And reported to Major Penrose?—A. I turned off when he answered me. He said, "Here I am."

Q. He was in front of B barracks at that time?—A. Yes, sir.

Q. What did he tell you to do?—A. Well, he said: "I wish you would take command of C Company." He said: "Captain Macklin can not be found," and "I am afraid that something has happened to him; he has been done away with."

Q. Something had done away with him?—A. Yes, sir.

Q. Then what did you do?—A. I went over there to the company and told Sergeant Harley, who had come back to the company at that time, to fall in the company and call the roll.

Q. In what state of mind, apparently, did you find the company, and how many of the company were in front of the barracks, if any of them at all?—A. When I first went over there and reported to Major Penrose, there was just about a third of them, I should say, down there.

Q. Had come down in front?—A. As I remember it, most of them did not have rifles, and a good portion of them were dressed in—

Q. Did any of them have rifles at that time?—A. Well, I would not be sure about that. They might have, possibly they did have, but I remember some of them did not.

Q. Let me ask you in that connection what, if anything, occurred to your knowledge with respect to the gun racks?—A. Major Penrose told me, when he told me to take command of the company, that he had just given orders for the racks to be broken open, as the non-commissioned officer in charge of the quarters there could not be found or had refused to open the racks until the captain of the company ordered him to do so.

Q. Do you remember what he said, whether it was that he could not be found?—A. I am not certain about that. It seems to me he

said either he could not be found or else had refused to open them until Captain Macklin got there.

Q. At any rate they were not opened?—A. Yes. He told me he had ordered them broken open, and when I got to the company they were upstairs breaking the racks.

Q. To what extent, before we leave the racks, were they broken open to any extent or injured?—A. There were two broken, but only one really broken open. They broke the lock and the staple off one rack.

Q. There is a gun rack right behind you. Indicate on that.—A. They had this—

Q. That is the revolver; get down to the other.—A. Down here they broke this off.

Q. That is the staple?—A. Yes, sir.

Q. That was broken off one?—A. Yes; and the other was struck on this steel band here, and Sergeant Brawner came there with the keys in time to keep them from breaking it entirely.

Q. Did you see him?—A. No, sir.

Q. How do you know he got back with the keys and opened up the rack?—A. That was the report made to me, to that effect.

Q. As commanding officer of the company?—A. Yes, sir.

Q. When you took command of the company were the men in a state of confusion or otherwise?—A. Very much so.

Q. What were they saying and doing; how were they acting?—Well, I did not notice particularly anything they said, except some men were grumbling about having to stand out there without arms and the post being fired into.

Q. Now, let us go back to the calling of the roll. You ordered Sergeant Harley to call the roll, did you?—A. Yes, sir.

Q. He was not the first sergeant?—A. No, sir.

Q. But acting first sergeant? What success did he have in calling the roll?—A. Well, I had never been on duty with that company before, and I did not know the men by name, but I could tell by the way he skipped from the noncommissioned officers to privates and back to noncommissioned officers again that he was not familiar with that roll, so after he called about five or six names I said to him to stop, that I would count the men myself.

Q. Did you count them?—A. Yes, sir.

Q. What was the result of the count?—A. I counted 52 men in line.

Q. Did you fully and satisfactorily verify that count before you left the front of the barracks?—A. Before I left ultimately, yes, sir; but I went inside the barracks first.

Q. You counted them, and then was it after you had counted them that you had occasion to go inside the barracks?—A. Yes, sir.

Q. Was 52 the correct number?—A. Fifty-two. That was the ultimate result of men present. When I first counted them there were three or four men short, so I went in the barracks, and I found three men in there.

Q. You found three in the barracks?—A. Yes, sir.

Q. Who were they, and what were they doing in there?—A. One man was upstairs by himself hunting for a bolt of a rifle. It seemed that Corporal Miller, of C Company, had been in the habit of taking

the bolt out of his rifle and putting it in his locker to keep it from rusting, and that night in the scramble to get the guns in the dark he got a gun with the bolt in it and left his own bolt locked up in the locker, and this man got a gun that was no good, that did not have a bolt in it, and he was hunting around for one. I don't remember his name.

Q. That is, either he or somebody else got the gun?—A. Yes; and the other two men were Sergeant McMurray and Artificer Rood.

Q. Where did you find them?—A. I found them downstairs. Sergeant McMurray was standing right against the door of the ammunition room.

Q. Before we come to that tell us what you did as to the one man whom you found up there in trouble about his gun?—A. I told him to get downstairs and we would straighten that out later.

Q. And he did go downstairs and fall in?—A. Yes, sir.

Q. Then you came down and you found McMurray and Artificer Rood where?—A. Right by the company's storeroom, where the ammunition was kept.

Q. What were they doing there?—A. Rood was in an argument with McMurray. He wanted to get into the storeroom and get some ammunition. He said he refused to go out there and be fired at without having anything to fire back, and the old sergeant said he would not open that door until I told him to.

Q. The sergeant was standing guard over the door?—A. Yes, sir.

Q. What did you do?—A. After I checked the company and satisfied myself that with the men in line and with the men on guard, and the sick and the men on detached service, that the company was satisfactorily accounted for, then I ordered them to open up a brand new box of ammunition and issued the ammunition to the company.

Q. They went into the storeroom?—A. Yes, sir.

Q. And brought out a case?—A. It was opened right in the room.

Q. What was done with the bandoliers?—A. They were distributed among the company.

Q. Twelve hundred rounds?—A. Yes, sir.

Q. Why was it Artificer Rood was saying they had no ammunition, and he did not want to go out unless they had some ammunition?—A. As I remember it, C Company was the only company in the post that carried the guard ammunition. They issued 10 rounds per man. I believe they had 650 rounds; I don't remember.

Q. That was the reduced range ammunition?—A. Yes, sir.

Q. We have been calling it here—used only for guard purposes?—A. Yes, sir.

Q. That is a cartridge, as we understand it, that has only about 15 grains of powder in the shell, as against 42 or 43.—A. Yes; and with a lead bullet.

Q. And what kind of a bullet has it?—A. A lead bullet.

Q. No steel jacket on it?—A. No, sir.

Q. How far can they shoot that?—A. They are supposed to be effective 75 or 100 yards.

Q. And the men were not satisfied to go out, or Mr. Rood was not, at any rate, with that kind of ammunition?—A. Yes, sir.

Q. And what he wanted was the regular ball ammunition?—A. Yes, sir.

Q. That is what you directed the quartermaster-sergeant to issue?—A. Yes, sir.

Q. And it was issued?—A. Yes, sir.

Q. And then it was after that ammunition was issued and you counted your men and found 52, was it?—A. Yes, sir.

Q. Present. Then you marched your company around where?—

A. I had orders, as soon as I formed the company and checked it, to march it around on the east of the C barracks and form it with the left of my company resting on the right of the B Company, so I marched them around through here.

Q. B Company was already around there?—A. Yes, sir; they were around there in this way, and I formed my company with the left right back of the center of the C Company, and extending about 250 or 300 feet in that direction, and then, after that, the intervals were made greater and extended down, so it covered the guardhouse.

Q. What kind of a wall is there at the point where you stationed your company?—A. There is a brick wall.

Q. How far to the east does that brick wall extend?—A. Well, as I recall it, it extends up about here.

Q. That is, to a point about opposite the east end of the vacant barracks?—A. Yes; that is the way I recollect it. I would not be positive.

Q. And you stationed your company behind that, with your right extended beyond it somewhat?—A. Yes, sir.

Q. How long did you remain there?—A. I remained there until I was relieved by Captain Macklin, who came to take his own company, about a quarter past 1.

Q. What time was it, do you think, when you posted your company there?—A. Well, it was between 12.15 and 12.20; not later than 12.20 o'clock.

Q. You were there an hour or longer?—A. Yes, sir.

Q. During that time state what opportunity you had to see your men, and to what extent you had observed and kept them under your eye.—A. During that whole period I walked up and down that line the whole time.

Q. About how long was that line?—A. Well, it is about between 250 and 300 feet, I should say.

Q. You were walking back and forth all the while?—A. Yes, sir.

Q. Did you see anybody cleaning any guns while they were out there?—A. No; I did not.

Q. A pretty dark night, was it not?—A. Very dark.

Q. Were you close enough to your men to see them, as you passed back and forth?—A. I was not more than 3 or 4 feet back of them at any time.

Q. So you were close enough, you could see all your men as you passed back and forth. Was there any opportunity for the men, so far as you know, to clean their guns while they were out there under your command?—A. No; I do not think they could.

Q. Do you know how long it takes to clean a gun after it has been fired five or six times, so it will stand a rigid inspection?—A. Well, do you mean to clean a gun entirely or the bore?

Q. To clean the bore and the chamber so as to remove all possible powder stains?—A. Forty or fifty minutes.

Q. Now, state whether or not they would have to have facilities for cleaning a gun in order to clean it satisfactorily. I mean a cleaning rod and rags and water, and so on.—A. Yes; I think they would. In the butt of the rifle is carried a thong brush and wiper, but that in itself is not sufficient to clean a gun without the assistance of a cotton rag and oil; that is, to effectively remove the stains of powder. That streaks it. The brush will streak it, it will take some of it out, but it will streak it.

Q. You were acting as adjutant, and you had to inspect guns every day?—A. Yes; guard mount.

Q. And you had to pay a good deal of attention to the cleaning of the guns?—A. Yes, sir.

Q. You are perfectly familiar with that rifle, are you not?—A. Yes, sir.

Q. And know what is required in order to thoroughly clean it. State to the committee whether or not it would be possible to clean that gun satisfactorily, so that it would pass a rigid inspection after it had been fired five or six times in the dark, without any light, in such darkness as you had there that night.—A. I do not believe it. I do not believe it could be. I do not believe a man could clean a gun in the dark, and if he used oil, could get all of the oil out of the chamber or down in the ejector or in the cut-off, or some place like that.

Q. It is necessary, is it not, to take a stick—A. A pine stick.

Q. And work with rags in these crevices and at those points?—A. Yes, sir.

Q. You had experience in cleaning guns of this general character while you were a cadet at West Point?—A. Yes; I cleaned them for three years.

Senator SCOTT. You do not mean this same gun?

A. No; we had the Krag there.

Senator FORAKER. I say a gun of this same general character. The Krag gun is similar to this in its general make-up?

A. Yes, sir.

Q. Now, in your opinion could the men have cleaned their guns while they were out there back of the wall under your command that night?—A. Well, they could have cleaned them in a way.

Q. How could they have cleaned them in a way—by the use of the thong brush?—A. By using the thong-brush wiper, or they might have a piece of rag or something of that kind and run through them, but I do not believe they could have effectively cleaned them so that they would not be detected.

Q. They could not have cleaned them so that they would pass an inspection the next morning?—A. No, sir.

Q. Such as would be made under the circumstances such as existed the next morning. You were relieved by Captain Macklin about an hour and a half, you think, after you went out there. What did you do then?—A. I reported back at the gate to Major Penrose.

Q. Then what did you do? Were you assigned to any other duty, or did you remain with him for the rest of the time?—A. I remained with him for about an hour, and finally he told me to present his compliments to all of the company commanders and tell them that C Company would go on guard—the whole company—until reveille,

and for all the captains to check up the companies and inspect their rifles and then dismiss them.

Q. About what hour in the morning was it that you delivered that order?—A. That must have been between half past 2 and 3 o'clock. I remember I got home at half past 3.

Q. Did you deliver the order?—A. Yes, sir.

Q. You notified each company commander that it was the order of Major Penrose that they should do what? I want to get it in substance.—A. That all company commanders would recheck their companies and inspect their rifles as soon as it was daylight.

Q. What do you mean by rechecking the companies?—A. Count the men; further verify the presence of all their men.

Q. Do you know what caused him to give that order at that hour?—A. Yes; I think I do.

Q. What was it?—A. A conversation that he had with Mayor Combe, of Brownsville, at the gate, at which I was present.

Q. When and in what manner did Mayor Combe appear at the reservation and have this conversation with Major Penrose?—A. He came in with Captain Lyon, in B Company, and they made a patrol of the town.

Q. Captain Lyon was sent out on patrol with the whole company?—A. Yes.

Q. And when he came back Mayor Combe was with him?—A. Yes, sir.

Q. Who else was there with him?—A. His brother, Joe Combe.

Q. Did you hear the conversation that ensued?—A. I heard a part of it.

Q. What did you hear?—A. I heard Mayor Combe say to Major Penrose, "Major, your men have done this thing; some of our most reputable citizens have seen them and recognized them to be soldiers under your command."

Q. What did Major Penrose say?—A. Major Penrose said, "I can not believe it, I can not believe it." He repeated that twice.

Q. Well, was it subsequent to that, and on account of that—I understand you so say it was—that this order was given?—A. Yes; I think that undoubtedly was what caused the order to be issued.

Q. It was given, at any rate, shortly afterwards?—A. Yes, sir.

Q. And you gave that order to each of the company commanders?—A. Yes, sir.

Q. To verify their men. Did they do that there at the wall?—A. I don't know when they did it. I simply delivered the order and went on to the next company.

Q. You delivered it to each company commander?—A. Yes, sir.

Q. That is, to verify the men and—A. And inspect the rifles as soon as it was daylight.

Q. Anything about ammunition?—A. No; I don't remember anything about ammunition.

Q. Now, then, what did you do after you had delivered that order?—A. I went over to Captain Lyon's quarters to get my family and go home.

Q. And you took your family home?—A. Yes, sir.

Q. And remained in your quarters the rest of the night?—A. Yes, sir.

Q. The next day did you have anything to do with the inspecting of the rifles, the next morning?—A. Not a thing.

Q. You were on staff duty?—A. Yes, sir.

Q. And not connected with any company? Were you present at a conversation had in the administration building? Is that where you had your quarters?—A. Yes, sir.

Q. With Major Penrose and some of the citizens of Brownsville the following morning?—A. Yes, sir.

Q. What was that conversation and who were present on behalf of the citizens of Brownsville?—A. About half past 10 or 11 o'clock a. m. on August 14 a committee of citizens, headed by the mayor of the town, the committee consisting of twelve members I recall, came up to the post and wanted to see the post commander. I took them into the major's office and introduced them.

Q. That is, they came to the administration building?—A. Yes, sir.

Q. That is indicated on the map?—A. Yes; building 32. Capt. William Kelly, chairman of that committee, got up and addressed Major Penrose, and said in so much as the outrage of the night previous, the intent and purpose of the committee's visit to the post was to find out from the post commander what steps he was taking or would take to protect citizens of the town from further violence. He went on to say that there was no doubt but what the shooting had been committed by soldiers, they had been seen and recognized as such, and requested that immediate steps be taken, if not already taken, to detect the men implicated with a view of their punishment.

Q. That is the substance of the remarks made by Captain Kelly, the chairman of the committee?—A. Yes, sir.

Q. What answer did Major Penrose make?—A. I should state, perhaps, that Captain Kelly in his remarks called attention to the fact that Government ammunition and bandoliers had been found in the streets of the town, and that circumstantial evidence was very strong against the soldiers, in view of the fact that they had been seen and recognized as colored men, and in the uniform of the United States Army. Major Penrose stated that it looked very much to him, in view of the evidence that they presented, that perhaps some of his men had been implicated in the outrage, and that he would have sooner lost his right arm than to have had the thing occur; that he had served going on thirty years in the Army and had never had any stigma or trouble attached to him.

Q. Now, was there any conversation there between any of the members of that committee and other officers and Major Penrose who were present? Please state what other officers were present, if any were.—A. Captain Lyon and myself were the only two officers present, besides Major Penrose.

Q. That I may call attention directly to the matter, state whether or not anyone who was present as a member of that committee made inquiry of Major Penrose as to whether or not he had caused the pieces of the men to be inspected, and any examination made as to ammunition.—A. I don't remember.

Q. If so, with what result; and did anyone say, in answer to such an inquiry, "No; there had been no inspection by commissioned officers, but he had all that done by noncommissioned officers." Was

there any such conversation of that character?—A. I don't remember that question being asked Major Penrose.

Q. Was it asked anyone?—A. It was. It was asked me.

Q. Well, I wish you would state, then—A. It came about in this way: After the committee had formally presented its protest there was an informal discussion between all the officers present and the members of the committee, and one man of the committee, Mr. Dennett, by name, asked me if I had inspected any rifles or checked up any ammunition, or what steps I had taken to detect the guilty parties. I told him none; that I was not attached to a company, and it was not my business to inspect the rifles.

Q. Well, did Major Penrose tell him he had taken no steps?—A. I never heard Major Penrose asked that question.

Q. Did Captain Lyon tell him that he had taken no steps?—A. I never heard Captain Lyon asked that question.

Q. Did anyone—did you tell him that only noncommissioned officers had been intrusted with that roll?—A. No, sir. I think at that point Mr. Dennett got a mistaken idea. What he asked was, who had checked these men in the night before, and I told him that the noncommissioned officers had done it as usual, the noncommissioned officers in charge of quarters. That was the custom of the service.

Q. That is, the 11 o'clock check?—A. Yes, sir.

Q. And is that true also as to retreat? Is the roll called at retreat?—A. Yes, sir.

Q. That is done by a noncommissioned officer?—A. The roll is called by noncommissioned officers, and most of the time in my regiment there is an officer of each company required to be present.

Q. That is a function at which a commissioned officer is supposed to preside?—A. Yes, sir.

Q. So that the conversation—I can not find it here so as to give the exact language, but I know I have the substance of it and very nearly the language—the conversation of the character that I have mentioned was such as you have just now given, was it?—A. Yes, sir.

Q. And not otherwise. Do you know whether or not, as a matter of fact, the men of those companies were inspected by the commissioned officers, and their rifles inspected and their ammunition inspected—checked up the following morning?—A. Only by hearsay.

Q. You had no personal knowledge?—A. No, sir.

Q. We will pass that. Now, had you any notice of trouble before this trouble occurred? Had anybody been to the post headquarters the afternoon or the evening of the 13th and notified Major Penrose that it would be necessary to keep his men in to save trouble?—A. Yes; notice came to the major's house.

Q. Up to his quarters?—A. Yes; up to his quarters.

Q. Were you present?—A. No; I was not.

Q. You were not present at that conversation?—A. No; but it was repeated to me afterwards when I issued the order in regard to it.

Q. Did Major Penrose issue an order on account of it?—A. He directed me to.

Q. Did you issue the order?—A. Yes, sir.

Q. In accordance with his directions?—A. Yes, sir.

Q. What was the order that you issued?—A. The order was that

all company commanders would publish to their companies at retreat that all passes granted that day, extending through that night and up to reveille the next morning, would be revoked at 8 o'clock that night, and all men must be in the garrison by 8 o'clock. He told me at the time that he had seen Captain Macklin, the officer of the day, and instructed him to send patrols through the town every hour after 8 o'clock to gather up any absentees. He said his reason was because he feared on account of that Evans outrage the night before, that small bunches of these men, one or two, would get in town by themselves, and some of the tougher element in the town might set on them and beat them up.

Q. Was there anything in anything he said to you that indicated that he was afraid if his men went downtown that night they would shoot up the town?—A. Not a thing.

Q. Just the opposite of that?—A. Yes, sir.

Q. He was afraid the men would get shot up?—A. Yes, sir.

Q. State whether or not he told you that the mayor had told him to get his men in, and if he did not get them in and keep them in he would not be responsible for their safety in town—did Major Penrose repeat to you anything like that?—A. No; he did not. He did not say that to me.

Q. State whether or not you had heard of this Evans outrage, as it is called, before this.—A. I had not heard of it until the commanding officer's orderly came to me and told me he wanted to see me. That was pretty near retreat time, pretty near 6 o'clock on the evening of the 13th. I had not heard it before.

Q. Somewhere in this record it has been testified by a Mr. Creager, I think—do you know such a gentleman?—A. Yes, sir.

Q. That he called at the administration building on the morning of the 13th, some time before noon, and gave notice of this so-called Evans outrage, and had a conversation with you and the major and others.—A. It is true that he called on the morning of the 13th, but he never mentioned anything about the Evans incident.

Q. You remember his calling?—A. I do.

Q. What was he there for?—A. He was there to intercede in behalf of Mr. Tate, the assistant inspector of customs, who had got into trouble by hitting that soldier over the head, and the commanding officer had made a complaint, written a letter to Mr. Van, the inspector of customs, demanding this man be disciplined or something be done with him for his conduct, and Mr. Tate evidently got very much worried, and he went to Mr. Creager, who was the United States commissioner, and spoke to him about it and asked him if he would not go up to the post and help to straighten it out. He was afraid of losing his position. That was the topic of his conversation that morning, and that alone.

Q. He talked about that and did not talk about the Evans matter?—A. He did not.

Q. So that if he had said anything to the effect that he talked with you about the Evans matter on that occasion, he is mistaken in his recollection?—A. Yes; he is mistaken.

Q. You have a distinct recollection about it?—A. Yes; I know that he did not mention the Evans incident, because I did not hear of it until 6 o'clock that night.

Q. Now, coming back to the barracks. Were there any lights at the barracks when you got over there?—A. No, sir.

Q. For fear I forget about it, let me ask you about another thing that I am reminded about by my notes. You were acting as adjutant of this battalion at Fort Niobrara?—A. Yes, sir.

Q. Were you in a position to know whether or not there were any protests on the part of anybody against the Twenty-fifth United States Infantry, on account of being a colored regiment, being sent to Fort Brown, in the State of Texas?—A. How do you mean—on the part of the officers of the regiment or on the part of the people of Texas?

Q. On the part of either. What do you know, if anything, about any correspondence on that subject, and if there was any correspondence on the part of anybody connected with the regiment or anybody connected with the War Department or any of the citizens I would like to have you tell me where I can find it.—A. Well, when the order came, or when we knew before the order was issued that we were to go to Texas, the newspapers of Texas came out in editorials in regard to sending colored troops down there and made reference to the trouble they had had there in previous years, and they called attention to the fact that it would be a bad move to send colored troops to maneuvers with the State militia, on account of the trouble that occurred at Fort Riley in 1903, and when this came out I was assistant to the regimental adjutant, and I know personally that the commanding officer, Colonel Hoyt, sent a letter to the War Department, accompanied by certificates of officers of a good many years' service—

Q. Well, there was a correspondence of the character you mention, and it would be in the War Department, I suppose?—A. I think so; yes, sir.

Q: I suppose we can get it there and I will not trouble you to detail what it was, beyond what you have already done. I only want to find out the fact. Did you hear any bullets at all that night that you remember?—A. I thought when I was coming across the parade ground to the east about up in front of the commanding officer's quarters I heard a scattering of shot on the ground, but I would not be positive about it. It might have been something else; some other noise.

Q. That is the only thing you heard that sounded like bullets?—A. Yes, sir.

Senator WARNER. He has not said they sounded like bullets.

A. I said it sounded more like shot.

Q. Did you mean shot as though—A. Yes; like buckshot from a shotgun, or something of that kind.

Q. That is the only thing of the kind that you heard?—A. Yes; and I am not positive about that.

Q. Did you hear more than one call to arms that night?—A. Yes, sir.

Q. Where was the first one sounded?—A. Sounded at the guard-house.

Q. Where were the others sounded, if at all?—A. They were taken up almost immediately in the three companies by the company musicians.

Q. Now, you were back and forth around among your men and counted them while the company was being formed in front of the barracks?—A. Yes; sir.

Q. I will ask you whether or not men could have come and joined your company, while it was forming, from downtown after the firing had been ended, if you can tell?—A. Yes; they could.

Q. In what way could they have done it without your observing them?—A. Well, it might be that they could come in the back, jump the wall, and come in the rear door of the barracks, come in the hall leading from the back to the front door, and act as though they were just coming outside of the barracks a little slow.

Q. They might have done that?—A. Yes, sir.

Q. And if they were men who had been downtown, shooting up the town, and who had gotten as far as 300 or 400 yards away, and who had to get back, they would likely have shown some evidence of that, such as panting?—A. Yes; they probably would have been out of breath, and showed by their faces that they were under great excitement.

Q. Were you in a position to observe anything of the kind if it had happened—any men in that condition?—A. I think I would have noticed it; yes, sir.

Q. Did you observe anything of that kind?—A. I did not.

Q. What is your opinion as to whether anybody did come and join your company, step out of that barracks?—A. My opinion is that they did not.

Q. When you say they might have done it, you simply mean that that is one of the possibilities of the situation?—A. Yes; that is possible.

Q. But you have no belief that any such thing of that kind happened, as I understand it. Now, do you know who did that firing in Brownsville that night?—A. I do not.

Q. Did you have anything to do with it?—A. No; I did not.

Q. You did not go out with a gun and shoot up the town of Brownsville?—A. No, sir.

Q. Do you know of anybody in Company C who did it, or either of the other companies?—A. I do not know of anybody there among the soldiers or in the town who did it.

Q. Have you any knowledge whatever that leads you to suspect anybody in either of the companies of having done it or that leads you to place suspicion on anybody?—A. No. I will say in fairness that the morning after the shooting I was convinced, like I think any reasonable person would be by the amount of circumstantial evidence against the men, that they had done the shooting.

Q. That is by reason of the clips and empty shells?—A. Yes; and I continued to hold that opinion from that time up until the men were discharged; but I must say at the present time that my mind is open on the question.

Q. Now you have at least no opinion on the subject?—A. No, sir.

Q. Did you send somebody as a patrol out of your company to go to the different places around the reservation to find out whether men who were not at roll call were on the reservation?—A. Yes; I did.

Q. Whom did you send out?—A. I sent Corporal Madison. I

told him to take two men and go to the post hospital, the quartermaster's corral, and around the quartermaster's stores to see everything was all right down there; that none of the animals had been shot or struck by shot.

Q. We have his testimony on the subject, and I only want to fix the fact that you sent him. That was his statement. Now, about the gun racks. Tell us to what extent they were injured.—A. One gun rack was practically uninjured, except a cut from the sharp edge of the ax in this steel band. That was the rack that they said—I did not see it personally—Sergeant Brawner got there in time to open before they broke it, and the other had the staple broken off it.

Q. There were four altogether; and what was the condition of the other two?—A. The other two, as far as I know, were never touched.

Q. Did you have anything to do with having those gun racks repaired?—A. I did.

Q. What was that?—A. Captain Macklin came to me the next day and asked me as post quartermaster to have my blacksmith fix those racks, and I said I would attend to it, and in this matter of the committee coming there to the post I did not get a chance in the morning, and he reminded me again in the afternoon, and I went over personally and saw the racks put in a Government wagon and taken to the blacksmith's shop.

Q. It has been testified that four were taken over there.—A. If they were, they were taken without my knowledge and authority.

Q. You sent only two?—A. Yes, sir.

Q. One that had been broken open and one that had been injured, but which had nevertheless been unlocked?—A. I think that is a mistake about four being injured, because the orders are very rigid never to repair anything unless they have had an order in writing from the quartermaster.

Q. You verified your men and satisfied yourself that they were all present who ought to be?—A. Yes, as near as I could tell. I had never been on duty in that company.

Q. As acting adjutant you would know how many were carried on the roll?—A. Yes, sir.

Q. And you knew they all ought to be there except those who were on guard or were in the hospital or some other place?—A. Yes, sir.

Q. And after going over that in detail you satisfied yourself that every man was there, and every man had a gun who was there?—A. Yes, sir.

Q. Lieutenant, here are various bullets—six of them—which it is claimed were cut out of houses in Brownsville. I wish you would look at them, and also at the same time look at a Krag cartridge and a Springfield cartridge, which I will show you, so you can see how the bullets of those cartridges look before being fired, and tell us whether or not you can tell whether the bullets supposed to have been cut out of houses were fired out of Krag cartridges or out of Springfield cartridges. Just look at the bullets in those cartridges, and then look at the bullets that were cut out of houses, and tell me whether you can tell what those bullets which were cut out of houses are. Commence with bullet No. 1, the bullet in No. 1 envelope.

Senator SCOTT. The witness is now looking at the bullet from No. 1 envelope.

By Senator FORAKER:

Q. (Continuing.) Can you tell us whether that is a Springfield or a Krag bullet?—A. I can not tell. The tip of that bullet is blunted, and that is practically the only difference between the two—the Krag and the Springfield.

By the CHAIRMAN:

Q. What is the difference between the two? Where on the bullet is the difference?—A. It is in the point of the bullet. The Springfield bullet is more pointed than the Krag, so that when they strike and hit a surface that will blunt the point of the bullet. I do not think you can tell one from the other.

Q. Then I understand that the bullets are identical except for the point?—A. No, sir; I think there is some difference, perhaps, in the weight not only of the bullet, but of the powder charge, or in the kind of powder used in the cartridge.

Q. I mean in the bullet itself.—A. In the bullet I do not think there is any radical difference, except that difference in the point.

Senator FORAKER. Speaking of the difference in the bullet itself, it is only fair to the witness that I should inform him that the weight of the Krag bullet is precisely the same as the weight of the Springfield bullet. Each weighs 220 grains.

The WITNESS. Two hundred and twenty grains; yes.

By Senator FORAKER:

Q. Now, you have told us about No. 1. Look at No. 2 and tell me whether you can tell which bullet that is. Just disconnect it from everything and look at it simply as the bullet.—A. (After examining bullet No. 2.) Well, there is the same thing here. You can not tell.

By Senator FRAZIER:

Q. Why can you not tell?—A. Because the points are so blunted.

Q. They are defaced, are they—blunted?—A. Yes, sir.

By the CHAIRMAN:

Q. The point has come in contact with some hard substance?—A. It has hit something that has blunted the point.

By Senator FORAKER:

Q. Now tell us about No. 3.—A. (After examining bullet No. 3.) That is a pretty hard one. I would not like to say whether that is a Springfield or not. It looks to me as if it was.

Q. That is No. 3?—A. Yes, sir.

Q. Are you familiar with the Winchester No. .30-caliber bullet?—A. Yes, sir.

Q. How does that compare in appearance with this?—A. Let me see the number of lands on that [again examining bullet].

Q. Disconnect the number of lands in your mind; just take the appearance of the bullet; that is all I want—the nose of the bullet, and so forth.—A. (After still further examination of bullet No. 3.) Well, I do not know; that might be a Winchester.

Q. You will not say that that is a Springfield; you only are in doubt about it?—A. No; I will not say that it either is or is not. I do not believe that anyone could tell.

Q. You do not believe anyone could tell?—A. No, sir.

By Senator WARNER:

Q. How many lands are on that bullet?—A. There are four, I think, sir.

Q. And how many are there on the Winchester?—A. I think the Winchester has four lands also.

Q. Does it not have six?—A. I do not remember about that, sir.

By Senator FORAKER:

Q. I am not examining you about the lands now. I think the Winchester has six lands. I am looking at the bullets just as they appear. The Krag carbine has four lands, the same as the Krag rifle, has it not?—A. Yes, sir.

Q. And the Krag rifle bullet might be fired out of the Krag carbine?—A. They use the same ammunition.

Q. In either event it would have four lands, if the lands marked the bullet at all?—A. Yes, sir.

Q. As I understand you, you have some doubt about bullet No. 3?—A. Yes, sir.

Q. You do not pretend to say it is one or the other?—A. No, sir.

Q. Now, take bullet No. 4. What do you say as to No. 4?—A. (After examination.) I do not know what rifle that belongs to.

Q. You do not know?—A. No, sir.

Q. Now, take No. 5.—A. (After examination.) The same with that one.

Q. Now, take No. 6.—A. (After examination of bullet and comparison with Krag-Jørgensen and Springfield cartridges.) I do not know which that is.

Q. We have been over all six of them?—A. Yes, sir.

Q. That is all on that point. Now, Lieutenant, tell us whether or not you have ever observed the manner in which, when a cartridge has been exploded and you are preparing to fire again, the empty shell is ejected from the ejector. Have you ever observed the ejecting of the empty cases?—A. Yes, sir.

Q. To what extent will the empty shell be thrown out of the gun, or what distance away from the gun?—A. I think that depends a good deal on whether or not the person firing pulls the bolt clear back to the stop on ejecting. If it is pulled all the way back, the shell will fly 6 or 8 feet.

Q. I did not hear the last part of your answer.—A. If you pull the bolt all the way back to the stop with a strong motion, the empty shell will fly 6 or 8 feet.

Q. Six or 8 feet?—A. Yes, sir.

Q. And how far will it fly if you do not pull it all the way back?—A. I have seen shells, in rapid firing, for instance, where the man only pulls the bolt back far enough to eject the shell, go right up in the air like that and fall over his elbow [indicating].

Q. Right over his elbow?—A. Yes, sir.

Q. Suppose you were firing five or six shots out of a gun in succession, where would you expect to see the shells lying after you got through, if you were firing rapidly?—A. According to my experience they would be lying in all directions from you.

Q. In all directions around you?—A. Yes, sir.

Q. You can not experiment with that gun in the rack there

safely except with an empty shell, can you?—A. No, sir; hardly. I could eject if I had a clip here to load that gun.

Q. If you were going to load that gun with, say, five cartridges, a whole clip, what would be the *modus operandi*? What would you do with the clip, and where, when the gun was loaded, would the clip be, in the natural course of events? Take that gun out of the rack and illustrate. Just take that gun out of the rack and show us.—A. (Taking gun out of rack.) You take the clip and shove it right down in there, and the little brass holder that holds the cartridges together is knocked out by the motion of the cartridge on it.

Senator WARNER. I assume that is all in evidence.

Senator FORAKER. All right; there is no question on that ground.

By Senator FORAKER:

Q. The clip would fall right down at your feet?—A. Yes, sir.

Q. And then as you fired the cartridges would come up one after another and the empty cases would be one after another ejected, and you say you think they would fly around in all directions?—A. Yes, sir.

By Senator FRAZIER:

Q. Would any of them go to the left, or would they all go to the right?—A. Some of them would go to the left.

Q. Some of them would go to the left?—A. Yes, sir.

By Senator FORAKER:

Q. They would go to the left, some of them?—A. Yes, sir; I have seen them strike a man's body when they came out. In that rapid fire it all depends on the reach a man has got up here to pull the bolt back. Some men are so short and have such short arms that it is impossible for them to load from the shoulder, and they have to bring the gun down each time [illustrating].

Q. You would not expect to find five or six empty shells that had come out of a gun all lying in close proximity to you, within a space of several inches?—A. No, sir.

Q. They would probably be scattered apart several feet, or more than that?—A. Yes, sir.

Q. It would be rather unusual that they were not scattered over a considerable space, would it not?—A. I think so.

Q. We have before us a report made by some Government experts, of a microscopic inspection of some cartridges that were said to have been picked up in the streets of Brownsville the morning after this firing. The fourth of these groups of cases consists of three cartridge cases, as to which we are told that they found, when they took the indentation made by the firing pin on the head of the cartridge when it was exploded, that it gave two indentations. If you will look on page 1314 of our record here, at figure No. 4, you will see a diagram there which illustrates what I refer to.—A. Yes, sir [examining illustration].

Q. If you were to find a cartridge case that had been fired out of a Springfield rifle belonging to your battalion of the Twenty-fifth Infantry—knowing what you do of these rifles—which had a double indentation like that, what would you conclude from that; that the cartridge had missed fire in the first instance, or what? I mean, why would there be two strokes?—A. It might be for several causes.

Q. What would they be?—A. I see two, but it is practically the effect of the same cause in both cases. It is where the firing pin in the bolt does not get in more than actual contact with the primer. That is, in other words, where it does not puncture or strike the primer hard enough to set off the fulminate. And that can also be caused by the bolt not being closed. That is a safety device on that breech-loading gun, that it will not fire unless the bolt is closed. And if the spring is not strong enough or is clogged in the bolt so it will not throw the firing pin so that it will reach the primer with sufficient force, it will not fire the cartridge.

Q. How could the spring be clogged?—A. Well, with dirt. That is the most frequent cause I have ever seen.

Q. Was there ever a time in the history of your guns when the spring was clogged, noticeably so? I call your attention to the condition in which you found your guns when they were first issued to you.—A. A new gun is always stiff—what they call “stiff.”

Q. When they are oiled with cosmoline?—A. That is it.

Q. Did you ever have any trouble with them, or not?—A. I didn't have any trouble myself, but I heard of trouble.

Q. You never had any trouble personally?—A. No, sir; I never had any trouble with my own rifle.

Q. In this same report we are told, as to certain of the shells mentioned, that they bear evidences on them of having been inserted into a service rifle more than once. Can you tell us what that kind of mark, on one of these cartridges that has been exploded, would indicate? Do you know where, in the use of the rifle, that would be most liable to happen—two insertions of the cartridge before it was exploded?—A. That happens frequently, Senator, on the target range.

Q. On the target range?—A. Yes, sir.

Q. In the history of your rifles, did it ever happen any other place than on the target range, to your knowledge?—A. That is the only place I have ever seen it happen.

Q. At the time you went to Brownsville your rifles were all in good working condition, were they not?—A. They had been used that last target season.

Q. Yes; and it was practically an unheard of thing, was it not, for a cartridge to miss fire—that is to say, the spring was strong enough to send the firing-pin against the head of the cartridge every time so that it would explode it, was it not?—A. Well, I do not know that there is anything definite on that, because the rifles were never used, that is, in target practice, from the time we left Niobrara to the time we went back to Fort Reno.

Q. I am speaking about when you left Niobrara.—A. But when we left Niobrara there certainly should not have been any rifle in the whole outfit in that condition.

Q. But when you first used them on target practice you may have had double indentations before you had an explosion?—A. Yes, sir.

Q. On the target range does it not happen every day, and many times a day, that a cartridge after it has been put in to be fired will have to be withdrawn because of the order to cease firing, or for some other reason?—A. I do not know that I can say it happens every day, but it does happen frequently, especially with recruits.

Q. How does it come to happen with them?—A. Well, they do not understand. The chief thing I have noticed with them is that they fail to close the bolt entirely when they load. I have seen company commanders fix the bolt, in fact, so that the rifle would not go off, to see if the man flinched when he shot. They would have him pull the trigger, anyway, and he would jump. They did that to see if he flinched, to cure him of flinching.

Q. If a cartridge has been inserted and the order to cease firing is given before the cartridge is fired, what is the soldier required to do?—A. To bring his rifle down to the position of "load" and open the chamber.

Q. And is the cartridge withdrawn or not?—A. My recollection is not clear on that. I believe it is, though.

Senator FORAKER. That is all.

By Senator FRAZIER:

Q. Lieutenant, when a cartridge is inserted in a gun in the manner which Senator Foraker has asked you about and the order is given to cease firing, that cartridge would not have any marks or imprints on it at all, would it?—A. No, sir; it would not.

Q. It would not be marked at all? You could not tell afterwards in examining that cartridge whether it had ever been inserted into a gun?—A. No, sir.

Q. After a cartridge has been fired and certain imprints are made on it by the striker and by the explosion of the shell, if that shell should be again put in the gun for the purpose of testing or otherwise and then should be ejected, would that make a second imprint on it?—A. Well, I could not say exactly about that. I have never tried that. But it seems to me that the ejector itself would follow the same path that it did before. It always makes a circular cut on the face of the shell in ejecting.

Q. Suppose the shell should be put in another gun and ejected, that would make a different imprint, would it not, upon that shell?—A. Yes, sir; it seems to me it would.

Q. It would? You think that if it should be put back in the same gun and struck again and then thrown out, that would make possibly the same imprint?—A. Yes, sir.

Q. As that made the first time when the shell was exploded?—A. Yes, sir. In other words, there is a personal equation in every gun.

Q. But if it should be put into a different gun and ejected?—A. The chances are that the marks would not coincide.

Q. They would not coincide. So that a shell that had two or more different imprints on it would indicate rather that it had been put in and ejected from two different guns, would it not?—A. Yes, sir; it would give that possibility.

Q. You say that shells which are ejected from the gun after the firing fall, of course, in different positions?—A. Yes, sir.

Q. That is a mere matter of speculation, depending very largely upon a number of conditions, is it not?—A. Yes, sir.

Q. Physical conditions?—A. Yes, sir.

Q. That exist at the time the firing is going on; among which is the rapidity of the fire and the strength with which the bolt is pulled back?—A. Yes, sir.

Q. That is one condition, and then the position of the gun would be another?—A. Yes, sir; the angle at which the gun was held.

Q. Whether the gun was held continuously at the shoulder of the man firing or whether it was brought down and the ejector pulled back after it was taken from his shoulder; that would be another condition that would affect the position of the shells, would it not?—A. Yes, sir.

Q. So that it would be impossible for anyone—state whether it would or not be impossible for anyone—to judge as to where a series of shells that had been exploded would fall after they had been fired and ejected from a gun?—A. Yes, sir; that is, they do not form any figure or anything of the kind.

Q. That is, they might fall and bounce?—A. Yes, sir; they might fall and bounce, and some might stand on their ends, and some lie on their sides.

Q. They might fall close together, and others be thrown considerably apart?—A. The chances are that the bunch would not be close together.

Q. That is, within a few inches?—A. No, sir; more than a few inches.

Q. More than a few inches?—A. Yes, sir.

Q. Maybe within a foot or two, and maybe a half a dozen feet or more?—A. Yes, sir.

Q. Depending upon all these conditions you have observed?—A. Yes, sir.

Q. So that you could not tell anything about that by simply finding cartridges lying on the ground, could you?—A. No, sir; except if I saw a heap of cartridges together, five in a bunch, in a maximum distance of 2 inches, I would not ever think that they had been fired from a magazine and ejected in that position.

Q. But if you found them around in the same neighborhood, you might conclude that they had been ejected from the same gun?—A. Yes, sir.

Q. Now, when you arrived at C Company barracks, did I understand you to say that that company was being formed, or a portion of the men had already come out of the barracks, and were in front of the barracks?—A. A portion of the men were out, but the company was not being formed.

Q. It was not being formed?—A. Because the first sergeant had come across—you remember I stated I met him going for his captain.

Q. Did any of the men have guns there, that you recall?—A. I do not remember, sir.

Q. You do not remember?—A. No, sir; because when I first passed the company I had not any particular interest in it. I was hunting for Major Penrose and did not know that I would take it.

Q. You do not, then, recall whether any of the men carried guns at that time or not?—A. No, sir; but it is possible that some of them did have their guns and some did not. I know for a fact that some did not. I found that out afterwards.

Q. You know that some did not have?—A. Yes, sir.

Q. And you do not know whether some did or not?—A. Yes, sir; that is the idea.

Q. Now, who had charge of the company up to the time that

Major Penrose directed you to take charge, if anyone?—A. Well, Captain Macklin was virtually in command of the company.

Q. I understand; but at that particular formation?—A. There was nobody before. We did not have enough officers there to go around.

Q. Was there any noncommissioned officer that seemed to be taking charge?—A. The first sergeant. It falls on him in barracks.

Q. I believe you said that the first sergeant was not present?—A. I mean the acting first sergeant.

Q. Was there any noncommissioned officer apparently forming those men when you reached the company?—A. No, sir; there was not.

Q. There was not. What were the men doing?—A. They were standing out there in line.

Q. Standing out in line, without anybody?—A. Without anybody.

Q. How many were standing out in line?—A. I would say about 15.

Q. Fifteen?—A. Fifteen or 20; not more.

Q. Do you think any of them had their guns?—A. It is a possibility; but I say I do not remember seeing any of them.

Q. What did you do, then, when you reached the company and saw these 10 or 15 men standing out there?—A. When I say when I first reached the company I mean when I passed, going to Major Penrose. When I was coming back the men were out with their rifles. As I say, when I got nearer the company I heard them breaking the racks, and then they came out with rifles, and I sent the men who were out there who did not have their rifles back. I told them to go back and get theirs.

Q. In counting the men, did you find any men who did not have rifles or ammunition?—A. Yes, sir.

Q. What did you do with those men?—A. I sent those men back to get them.

Q. You sent them back to get them?—A. Yes, sir; that is, the rifles, not the ammunition. I had the ammunition brought out to the men in ranks.

Q. As you would find a man who did not have a gun and would send him back, where would he fall in when he returned?—A. On the left of the company. I called to them as fast as they would come out—I could see them coming down the front steps—to fall in on the left of the company.

Q. Could you tell, with these men being sent back in this way, whether you were counting them more than once?—A. No, sir. I have stated before—not here—that there is a chance of my making a miscount in that very way.

Q. As you came to a man without a gun you would send him off, and then he would come back and join the company later?—A. Yes, sir.

Q. And in that way—A. I might have doubled up on some of them.

Q. Do you claim that going through that process you made an absolutely accurate count?—A. No, sir; I never claimed I made an air-tight check of that company that night.

Q. You do not claim it now?—A. No, sir; I do not claim it now.

Q. You left the company during the formation and went upstairs, I believe I understood you to say?—A. Yes, sir.

Q. How long were you gone from the company?—A. I was gone about two minutes.

Q. Gone about two minutes?—A. Yes, sir.

Q. Were the men still falling in during that time?—A. No, sir; that was when I counted them and they said they had not any ammunition, and I went inside and found these two men I mentioned squabbling about going into that room, and I heard this man running around upstairs, and I went just long enough to tell him to come down and get in ranks, and then I went and told Sergeant McMurray to open up that room and get a case of ammunition.

Q. Did you go into the quartermaster's office, or room, where the ammunition was?—A. Yes, sir.

Q. Did you go in there before or after you went upstairs?—A. Afterwards, when I came downstairs.

Q. Did you go up into the squad room where the men were asleep, upstairs?—A. Yes, sir.

Q. And there you found three men, I believe you said?—A. No, sir; one man.

Q. One man, and the other two men you found down at the door of the quartermaster-sergeant's room?—A. Yes, sir.

Q. Now, did you have that ammunition carried out in front of the barracks for distribution, or did you have the men come in and get it?—A. I had it carried out. I kept the men in ranks and made the noncommissioned officers, the file closers, carry it out and distribute it to them.

Q. They carried the ammunition out?—A. Yes, sir.

Q. Did you keep any count of the ammunition that was distributed, or did you give to each man the same amount or different amounts?—A. No, sir; I did not, for this reason: At that time everybody in the post supposed that the post had been fired into, and they were expecting perhaps another attack, and my orders were to get that company out there along that wall as quick as I could; to check it up and get it out there. The checking was done more with the idea to convince the commanding officer that none of the men were missing in town or had been hurt. We were not thinking about checking the men into the post to see that none had been out at that time. So I say I never claimed to have made an air-tight check. But I felt satisfied that all that company was there; and then I told the sergeant to give each of the men a bandolier. I had plenty else to do without walking up and down that line distributing ammunition.

Q. So that your check was made for the purpose of ascertaining whether any of the men had been hit?—A. Yes, sir.

Q. And not with the view of checking them, to see if any of the men had been out in the town that night, or were out in town?—A. That is the idea, exactly.

By Senator SCOTT:

Q. Lieutenant, did you think when you were crossing the parade ground, and after you got over there, do I understand you to say that you thought the barracks were being fired on?—A. I did, until the next morning, sir.

By Senator FRAZIER:

Q. So that in checking up in that way to ascertain whether any of the men had been injured, your attention was not directed to the fact as to whether men were hastening into line, and whether they were out of breath or not?—A. Not particularly so; no, sir. That is, I was not looking for anything of that kind.

Q. No; you were not looking for anything of that kind?—A. No, sir.

Q. And would it have been possible, Lieutenant, to tell in the dark, from the faces of colored men, whether they had been running or not, under the existing excitement of the formation of the company at that time?—A. If they had run the distance from the post as far up as that Ruby saloon where the bartender was killed, it would have been noticeable on them, all right, because when I checked them I walked up both lines as near to the men as I am to this table.

Q. Suppose that a man had run that distance and had come through the back door, or otherwise, and had come out in front of the barracks, and suppose he had stopped and got his breath, could you still have told that?—A. Well, when he had run that distance, I think, as fast as they would have had to do it if anybody in the post did the shooting, to get back to make the barracks, he would have come pretty fast, and it might take him more than a couple of minutes to regain his ordinary breathing.

Q. How long was it from the time you heard the first firing until you got out of your house?—A. I was out of my house going down the stairs when the first call to arms sounded.

Q. How long was that after you heard the first firing?—A. That was about three minutes.

Q. That was about three minutes?—A. Yes, sir.

Q. You had to dress yourself, did you?—A. Yes, sir.

Q. I believe you stated that you took your wife and child with you downstairs.—A. Yes, sir.

Q. And did your wife and child have to dress, also?—A. No, sir; they did not. They just threw wraps around themselves.

Q. Just threw wraps around themselves?—A. Yes, sir.

Q. Did you stop to get any arms, to equip yourself in any way, before you left your house?—A. No, sir; I did not. I had my revolver right there on the floor.

Q. You had your revolver on the floor?—A. Yes, sir.

Q. Lying on the floor?—A. Yes, sir.

Q. Did you have ammunition?—A. I had ammunition.

Q. But I thought you stated you had your revolver in your trunk?—A. No, sir; I had ammunition in my trunk. I had a trunk there that had this ammunition in it. I had just been there a short while. This was in a small wicker basket in the trunk, and I had simply to go there and reach in the till and get a handful. But I didn't put on any more clothing than was necessary. I put on my shoes without any socks and a pair of riding breeches without any leggings, and no hat, and went out with my revolver, and I got out that quick.

Q. Then you took your wife and child over to the adjoining quarters?—A. Yes, sir.

Q. And then you started for the barracks?—A. Yes, sir; on a run.

Q. About how long do you think it was, Lieutenant, from the time

you heard the first shot until you reached Major Penrose and reported to him, between B and C Company barracks, as I believe you stated it was?—A. I would say about four or five minutes, sir.

Q. Four or five minutes from the time you heard the first shot until you reached Major Penrose?—A. Yes, sir.

Q. Then about how long after that, how much time was consumed, until you got the company formed and made that count?—A. I would say about 6 or 8 minutes more.

Q. Six or eight minutes more. Then how long did it take you to get your men supplied with ammunition after that?—A. That includes everything; that six or eight minutes.

Q. Six or eight minutes more includes everything?—A. Yes, sir; from the time I started to put the company in position back of the wall.

Q. What time did you say it was from the time you heard the first shot until you reported to Major Penrose?—A. About five minutes.

Q. About five minutes, and then six or eight minutes more?—A. Yes, sir.

Q. Which makes some twelve or thirteen minutes?—A. About twelve minutes. I would say it was fifteen minutes from the time I turned out until I had that company in position behind the wall.

Q. That is your estimate?—A. Yes, sir; that company was the last one to get out there.

Q. When you reached Major Penrose, had the firing ceased?—A. No, sir; it had not. Firing was still going on uptown when I got over to C Company barracks.

Q. When you reported to Major Penrose?—A. Yes, sir; when I reported to Major Penrose.

Q. Had it ceased before you finished forming your men?—A. Yes, sir.

Q. How long before you finished your formation had the firing ceased?—A. I do not know exactly, sir; but it was going on when I went in the barracks to find those men, and it stopped by the time I got out. I didn't pay any particular attention to it. It was away uptown there somewhere.

Q. Lieutenant, would it or not have been possible for men to have joined your company while you were inside of the barracks without your having seen them or having known about it?—A. Yes, sir; that is a possibility. There are a good many ways they could have gotten into the company.

Q. A good many ways they could have gotten into the company?—A. Yes, sir.

Q. In what different ways could they have gotten into the company?—A. They could have come in the way I mentioned, jumped the wall and come up on the back porch and through the corridor to the front porch, and nobody could have told whether they came downstairs or from the dining room or kitchen; or they could have come around on either side of the barracks, either between B and C barracks or between C and the vacant barracks; or they might have run in right through the front of the barracks.

Q. In either one of these several ways they might have joined the company?—A. Or another way—instead of coming through on the ground floor, they could have run up the back stairs, through the sleeping rooms and down the front stairs, and joined the company.

Q. Now, what is true of that company is it or not true of all the companies?—A. Yes, sir; the arrangement of the barracks was all the same.

Q. Practically the same?—A. Yes, sir.

Q. When you marched your company around by the wall and put them in position there, about what distance were the men separated?—A. About 2 yards.

Q. About 2 yards?—A. Those men that were behind the wall. Then for those that extended out into the open, by direction of the commanding officer, the interval between those men was extended to about 10 or 15 yards, I think. The company extended down far enough to protect the guardhouse.

Q. So that at the end of your company toward the guardhouse the men were some 10 or 15 yards apart?—A. Yes, sir; about 10 yards apart.

Q. About 10 yards apart. Now, if any soldier had had the appliances in the butt of his gun or otherwise, would there have been any difficulty in his having opportunity to have cleaned his gun there, while you were at the other end of your company, without your seeing it?—A. No, sir; there would not have been. But there is a certain way; but I feel positive that that thing could not have been done.

Q. There is a certain way to clean a gun?—A. No, sir.

Q. What do you mean?—A. It is the arrangement of a company. A man is assigned a position in ranks and he stays there. Now, no man would be able to know whether he was going to draw right in back of the barracks or whether he would draw away out there on the end, where he would be able to do it. Of course if a man had been implicated in the shooting, and had been away out there by the guardhouse by himself, he would have been able to do it; but the chances are that with that number—either 8 or 10—that did that shooting they would not all have been on that end of the company.

Q. But if one or two of the men had been out there they would have had an opportunity to clean their guns?—A. It is a possibility. If they had prepared and stuck an oiled rag in the butt of their rifles there, and had their thong brush wiper there, they could have cleaned the gun.

Q. They could have cleaned the gun?—A. Yes, sir; but there would have been traces of oil in it, I think, that a careful inspection would have detected at daylight.

Q. A gun can be cleaned with that thong brush with a rag and oil, can it?—A. Yes, sir.

Q. So that it will pass inspection?—A. Yes, sir.

By Senator FORAKER:

Q. Can you clean the chamber with a thong brush?—A. I have never seen it tried, sir. In answer to that, Senator, I would say that in fact, in the service, the majority of the men prefer what is known as the barracks cleaning rod, or the old brass ramrod, to this new appliance, because that is a thing that takes considerable time and patience to put together and clean a rifle and take apart again.

Q. That is a brass ramrod right there in that rack?—A. Yes, sir; that is the rod they use, the brass ramrod [indicating rod].

Q. That is what they prefer?—A. Yes, sir.

By Senator FOSTER:

Q. Lieutenant, you were furnished with the Springfield rifle at or about what time?—A. Just before the target season of 1906, I think; about April; April or May.

Q. Were you adjutant then?—A. No, sir; I was adjutant of that battalion, but we were served by regimental headquarters then.

Q. When these rifles were sent to the company was the ammunition sent also?—A. Yes, sir.

Q. Tell the committee, Lieutenant, what would accompany the rifle when it would be sent to your company or regiment for service.—A. New rifles are always sent packed in arm chests furnished by the Ordnance Department, containing 10 rifles each and the bayonets, and in each box there is also what is known as a box of spare parts. Certain parts of the rifle, if broken or worn out, are expendable, and they furnish each company with these expendable parts or spare parts that can be replaced without expense to the company commander and the men, provided the rifle is not injured. That is all that goes with the rifle—the bayonet and the spare parts.

Q. Is a decapper sent with the rifles?—A. That comes on application for what is known as the reloading outfit.

Q. When the first loading outfit is sent, is the decapper sent at that time?—A. What is that?

Q. When you receive your ammunition?—A. No, sir; that is usually in the company, and has been for some time, because they use that in loading gallery shells for gallery practice more than anything else.

Q. Your rifle was changed from the Krag to the Springfield just before your target shooting?—A. Yes, sir.

Q. And you were then sent the Springfield rifle for the target-shooting purpose?—A. Yes, sir.

Q. Did target shooting follow very shortly after you received that rifle?—A. Yes, sir.

Q. At that time did the regiment also receive everything necessary for target shooting?—A. Yes, sir; all target materials of every shape, ammunition, targets, target frames; everything of that kind is requisitioned for and supplied before the season starts.

Q. Would the decapper come at that time, with the rest of the materials for target practice?—A. I say that all depends on whether or not they had one in the company already or not. That is a thing they use right along for years. You may go to a company and they will turn over to you one that has been used three or four years for that purpose.

Q. Could you use the Krag decapper for the Springfield shells?—A. I have never tried it, but I think you could. All that does, Senator, is to simply remove that cap. It simply presses it out, and it is just a spindle-shaped piece of steel with a point on it, and you just put it on the depression in the cap, where it has been struck, and press that piece of copper right out, and then the shell goes to the arsenal and they put a new cap with fulminate in it, and load it, using that same case.

Q. When the cartridge is exploded, what account is kept of the shell; or is any account kept of the shells after one of these range practices?—A. Yes, sir; there should be.

Q. By whom should it be kept?—A. It should be kept by the company commander himself. He is the man who is responsible for the ammunition.

Q. Is that kept in a book, or ought it to be kept in a book?—A. I have seen it kept in a book, by the best of company commanders.

Q. The number of empty shells ought to be registered in the company book?—A. There should be a record each day of the number of shells used on the range, and the number of cartridges brought in from the range should be checked up to see if all the cartridges were used. Some men will fire five rounds and do very well and get excused. Another man does poorly, and the company commander directs that he fire ten rounds, to see if he does not improve. They keep track, and this is checked up with the empties when they come in at night, to see if it corresponds.

Q. Are these shells decapped on the ground?—A. Ordinarily they are. A man sits right there, and as fast as they are used he decaps them and throws them in a separate box.

Q. Then if there are any empty shells belonging to any company, some record of that ought to be in some place among the archives of the company, ought there not?—A. There should be a record of it; yes, sir. It is not a record of the company, not required by regulations to be a record of the company, but that is the only way that I know to keep check on it. Most company commanders are very careful to get all the empties they can, because they get a certain percentage of ball ammunition for a certain number of empty cases turned in to the arsenal, and they get that much more additional shooting.

Q. This consignment of Springfield rifles was all flushed with this cosmoline oil when it left the factory, was it not?—A. Yes, sir.

Q. Well, as a matter of fact, before these rifles are used on the target range is not all this cosmoline oil removed and are not the guns cleaned?—A. Well, it should be.

Q. Is not that the usual practice and requirement?—A. Yes, sir; it is. As I remember it, we did not get these rifles but a very few days before target season, and it might be that some of the men had not taken the bolt apart. That bolt is a conundrum for anybody for the first time to take apart and put together again, and the men knew that, and they probably did not want to monkey with it and take it apart.

Q. Would not the presence of this cosmoline oil in the gun have any effect upon its shooting?—A. It is inside of the bolt. It clogs the spring that releases the firing pin. It clogs it, gets between the spirals of the spring and clogs it, so that the spring has not any tension.

Q. That would be an additional reason for requiring them to have this oil removed, would it not?—A. Yes, sir.

Q. And it is generally expected and required, is it not, that the gun should be in a proper condition when they go out on the target range?—A. Yes, sir.

Q. And if the presence of this oil would tend to obstruct the use of the gun in any way the soldier is expected and required to remove that oil, is he not?—A. Yes, sir; but there is no way of telling that he has got that cosmoline out of the spring of the bolt until he does some actual firing. You can not tell by looking at the outside of the

bolt. That bolt might be as clean and free from grease and oil as could be on the outside and still be clogged inside with cosmoline, and you can not tell it until you take the bolt apart. Now, that is forbidden by the regulations, to take that bolt apart. All a soldier is allowed to do is to remove that bolt, in cleaning, and that is to avoid that very thing, to avoid an ignorant man taking it apart and breaking it.

Q. Who is authorized to make that examination?—A. The company commander can, I believe, order an enlisted man to take that bolt apart, but it must be always ordered by a commissioned officer, and there is no way of telling, as I said, until they are actually used in firing, whether the bolts have actually been taken apart or not.

Q. Can you locate where the last firing that you heard over in Brownsville was that night?—A. I can locate approximately. It sounded to me down in here somewhere [indicating on map].

Q. Down somewhere near?—A. Thirteenth street; right down in the middle of the town. It was scattered firing, like people firing from upstairs windows; mixed arms, shotguns, revolvers.

Q. Thirteenth street and Washington street?—A. Yes, sir; somewhere in the middle of the town, somewhere back of C barracks, in that direction.

Q. Did those reports sound as though they came from high-power rifles when you were going over the ground?—A. No, sir; they did not; revolvers and shotguns.

Q. What is the difference in the distance, would you take it to be, from your quarters to the place where you heard the last firing, as you pointed out on that map—

Senator SCOTT. That map is 30 feet to the inch.

The WITNESS. Thirty feet to the inch?

Senator SCOTT. Yes.

The WITNESS. Well, the parade ground is about 135 yards wide. It would be about 250 yards.

By Senator FOSTER:

Q. The difference. I asked you what was the difference in the distance—A. Excuse me.

Q. (Continuing.) From C Company barracks to your quarters and from C Company barracks to the place where you heard the last firing, about Thirteenth street, as you have indicated.—A. Taking this as the place where I said it was, approximately [indicating] it is a little farther from C Company barracks to the place where I estimate I heard the last of the firing than it is from C Company barracks to where I lived.

Q. A little farther?—A. Yes, sir.

(At 4 o'clock p. m. the committee adjourned until to-morrow, Saturday, March 30. 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
March 30, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Lodge, Hemenway, Bulkeley, Warner, and Pettus.

TESTIMONY OF SECOND LIEUT. HARRY S. GRIER, U. S. ARMY—
Continued.

By Senator FORAKER:

Q. Mr. Grier, one question I forgot to ask you yesterday was about the establishment of posts for guards at Fort Brown. There was a post No. 2, as I understand you?—A. Yes, sir.

Q. The beat of that post carried the guard around the barracks?—A. Yes, sir.

Q. He went around all the barracks, to his left, it has been testified.—A. Yes, sir.

Q. Can you tell how that post came to be established there and when it was established?—A. It was established two or three days after we got there. I went to the commanding officer myself. There was a good deal of Government property that could not be unpacked right away and had to be left out on the back porch, and the men were continually chasing Mexicans away from there that would come in and attempt to take things, and I was still accountable for all that property, and I went to the commanding officer and suggested that it would be a good thing to put a sentinel back there to keep those people from coming up on the back porch at all.

Q. That was two or three days after you got there?—A. Yes, sir; after we got there.

Senator FORAKER. That is all.

By Senator WARNER:

Q. It was a natural and necessary place to have a sentry anyway, was it not?—A. Well, I do not know. It seems to me it would have been; yes, sir.

Q. I am asking your opinion as an officer.—A. Yes, sir. But I do not know whether they had ever had any post there before.

Q. I know; but I am just asking your opinion as an officer. There was a sentry there guarding and looking after the barracks?—A. Yes, sir.

Q. And this beat extended, commencing with the vacant barracks, No. 36, down to and around Barracks D. and then back again?—A. That is, up the front.

Q. Up the front; yes. So that his beat was from 1,200 to 1,500 feet or more?—A. Yes, sir; a little more than that.

Q. Now, while on that I will ask you this—A. Except this, sir, that during the daytime he simply walked in rear of these three barracks which were occupied, and not until retreat did he walk clear around all the barracks.

Q. I am speaking of the night.—A. Yes, sir.

Q. Do you know the soldier that was doing duty there at midnight on the night of August 13?—A. Yes, sir.

Q. Who was he?—A. Private Joseph Howard, of Company D.

Q. Did you ever have any talk with him about the shooting?—A. I did not.

Q. Did he ever make any report to you? You were acting adjutant of the battalion?—A. Yes, sir. He never made a report to me.

Q. Did he ever make any report to Major Penrose, in your presence?—A. No, sir. I know, as a matter of information, that he did make a report to Major Penrose, but not in my presence.

Q. From whom did you get that?—A. Well, I saw his affidavit, for one thing. It was drawn up and sworn to before his own captain, who was the summary court officer. They came in my office.

Q. Who was this captain?—A. Captain Lyon.

Q. And that was all the account that you know of his making?—A. Yes, sir.

Q. What was that report, if you saw it?—A. As I recall it, in substance it was to this effect, that he was posted as a sentinel in rear of the barracks, and in passing in rear of C Company's barracks about 12 o'clock shots were fired from the town toward the post, and that he ran between B and C Company barracks, as I remember it, around in front, fired his rifle twice, and alarmed the guard.

Q. Did he say they were fired over the wall into the post?—A. Well, he might not have used those words, but it would give that impression—that is, the fire was directed toward the post from the town. That is my recollection.

Q. Did Major Penrose ever tell you of any report that Howard made to him of that?—A. No, sir; he did not. I do not believe he ever mentioned it to me.

Q. Did Major Penrose, in your presence, ever make any statement that Howard had made to him when Mayor Combe was present?—A. No, sir; he did not.

Q. Nor in your presence?—A. No, sir.

Q. To refresh your memory, lieutenant—these things may escape us—on page 751, part V of the court-martial proceedings, in your testimony in the following:

Q. Did he say anything with reference to Mayor Combe's report to him?—A. Nothing, except that he believed that Mayor Combe was mistaken. I believe Major Penrose also stated at that time that he had seen Howard, the sentinel on that post in rear of the quarters, and that Howard had told him the first shots were fired over the wall into the post.

Q. What have you to say as to that?—A. That was Major Penrose's statement to me, but was not made in the presence of Howard.

Q. I asked you if it was made in your presence. This statement was made to you?—A. Yes, sir; he made that statement in regard to Howard.

Q. That is correct, then, that part of it?—A. Yes, sir; that is correct; but the man himself was not there, and he did not say it himself.

Q. And you never had any talk with Howard?—A. I never spoke to Howard at all, sir.

Q. Now, you attempted to find out all you could about this, did you—the shooting?—A. Yes, sir.

Q. And your brother officers, as far as you know, also tried?—A. Yes, sir; I know they all did.

Q. And did they not invite any soldier in the battalion to tell anything that he knew about it?—A. Yes, sir.

Q. Was there any restraint upon a soldier when he said he had any information, such as to tell him, "You simply state in answer to questions, and do not state anything except in answer to questions?"—A. There was in one case.

Q. Where was that?—A. That was in the investigation of Colonel Lovering. I received the same instructions.

Q. But I am speaking of the officers of the battalion.—A. No, sir; the men were offered every inducement.

Q. They were offered every inducement?—A. To tell.

Q. Before you got to your company the firing had ceased, as I understand you?—A. Just about the time I got over there.

Q. That is a little indefinite, Lieutenant. Was it before or after you got to the company that the firing ceased?—A. The firing was still going on when I reported to Major Penrose at B Company. By the firing I mean that promiscuous shooting from the houses in town, not the firing from high-power rifles, but the scattered fire that was going on uptown.

Q. Oh! And did you not know from the report made by Mayor Combe, not to you, but in your presence—A. Yes, sir.

Q. That when this high-power fire was through with citizens fired out of their houses, out of their windows?—A. Yes, sir; I know there was that sort of firing; there must have been.

Q. So that the high-power fire had ceased before you got to your company?—A. Yes, sir.

Q. When you speak of high-power rifles, Lieutenant, what do you mean?—A. Well, I mean a firearm such as the Winchester, Springfield, Krag, Mannlicher, and other rifles.

Q. Of high power?—A. Of high power.

Q. Could you distinguish that night as to what kind of rifle was being used?—A. No, sir; I don't think anybody can tell the difference between the sounds of the different high-power rifles.

Q. I asked you if you could.—A. No, sir.

Q. But it was a high-power rifle?—A. Yes, sir.

Q. About how many parties would you think were engaged in that shooting?—A. That is a pretty hard question to answer. Judging from the number of shots, and I judge there were about 60 to 75 shots, that number might be delivered by from four to eight men.

Q. That would be your judgment, then, Lieutenant?—A. Yes, sir. It all depends, of course, upon the rapidity with which they delivered the fire.

Q. Yes. When you got to your company—when you got over, rather, near the barracks—your first duty was, as adjutant, to report to the commander of the post, Major Penrose?—A. Yes, sir.

Q. Which you did?—A. Yes, sir.

Q. And he ordered you to take command of Company C?—A. Company C.

Q. Captain Macklin was captain of that company, and you understood that he could not be found, did you not?—A. Yes, sir.

Q. When you got to Company C, as I understand, there were 10 or 12, or such a matter, of men down?—A. Yes, sir; I would say about 15 or 20 men; about one-third of the company.

Q. And if I remember right, they were without arms?—A. Well, I could not state if they were all without arms. Some were, some that I know. As I passed by I saw men standing in ranks without rifles; but at the time I first passed the company, I had not any particular interest in it then, in an official capacity. I just went right alongside of the men as I passed to go to Major Penrose, and I noticed some men were standing without arms, but I don't know whether they all were or not.

Q. And you understood that the officer in charge of quarters had refused to open the gun racks?—A. That is, the noncommissioned officer in charge of quarters.

Q. The noncommissioned officer in charge of quarters?—A. Yes, sir.

Q. Pardon me; I speak of officers and noncommissioned officers rather indiscriminately.—A. Yes, sir.

Senator BULKELEY. Did I understand that they refused to open the gun racks?

Senator WARNER. That was his understanding.

Senator BULKELEY. That they refused to open them?

The WITNESS. Yes, sir.

By Senator WARNER:

Q. Do you know who the noncommissioned officer in charge of quarters was that night?—A. Yes, sir.

Q. Who was it?—A. Sergeant Brawner.

Q. Did you see Sergeant Brawner that night?—A. I did not. I don't remember seeing him.

Q. What was his duty upon hearing the call to arms? Was it his duty then to open the arms racks for the men so that they could get their rifles?—A. No, sir. After the racks are locked it is his duty, for purposes of drill or guard, when it is necessary to remove rifles from the racks, to open the racks and let the men have their rifles out; but when there is a call to arms it is best for him to wait and get instructions from a commissioned officer before he opens up those racks.

Q. Who was the ranking noncommissioned officer there that night?—A. Sergeant Harley, acting first sergeant.

Q. He was there?—A. Yes, sir.

Q. Did he have authority to give the order to open the gun racks at the call to arms?—A. Well, he could have given it.

Q. I asked you would he, as a soldier, a noncommissioned officer, the ranking noncommissioned officer, have authority to give the order?—A. That all depends, Senator, upon how the company commander runs his company. If he allows his first sergeant to issue orders of that kind, that is all right; but where he is on doubtful ground it would be best for him to see his captain before he does anything of that kind.

Q. What do you mean by "on doubtful ground?"—A. Where there is danger of assumption of authority. And in addition to that I might say that Sergeant Harley was green, as a first sergeant, and he was not sure exactly where he stood. I think that if the regular first sergeant had been there it would have been different.

Q. Yes; and you made no accurate count before you moved around

behind the barracks with your company, you have stated?—A. Well, I made it as accurately as I could, but as I testified before, I never claimed that it was an air-tight check on the company.

Q. What do you mean by that?—A. I mean by an "air-tight check" that it was absolutely certain that every man that belonged to that company was in there, or accounted for somewhere else.

Q. You went along in front of the company, and it was a very dark night?—A. It was a very dark night.

Q. And you counted them off, and you had no lantern?—A. No, sir.

Q. And if you found a man that had not his gun or ammunition, you sent him for it?—A. Yes, sir; that was the only thing I could do.

Q. And you sent at least a dozen men, you testified, back, and as they returned, they would drop in?—A. Yes, sir; I yelled to them as they came back; I could see them as they came down the steps. I called to them to fall in on the left of the company, so that they would not fall in above after I finished counting off.

Q. As you were going along counting you would find a man without a gun, and you would have him go and get his gun, and then when he came back he would go and drop in?—A. Yes, sir.

Q. And you went on with your count?—A. Yes, sir.

Q. So that he could drop in to the left, or anywhere else?—A. Yes, sir; he could.

Q. In issuing ammunition, that was issued to them very promiscuously?—A. Yes, sir; it was issued as fast as it could be carried out by the noncommissioned officers to the men.

By Senator BULKELEY:

Q. Were the men in line when you issued the ammunition?—A. Yes, sir; I kept the men standing in line and made the file closers hand the ammunition to the men.

By Senator WARNER:

Q. That is, whenever you found a man in line there, as you were going along counting them, you would tell him to fall out?—A. Yes, sir; that is, if he did not have a rifle and ammunition.

Q. And ammunition. And you say you think there were at least a dozen of those?—A. Yes, sir; there might have been a dozen or fifteen men.

Q. But, in your judgment, there would be at least a dozen?—A. Yes, sir; at least.

Q. Who dropped out that way?—A. At least a dozen men, sir.

Q. And this was at least five minutes after the firing had ceased, when you were counting the men there?—A. When I finished counting them, sir; at least five minutes.

Q. That is, after this straggling fire had ceased?—A. Yes, sir.

Q. And how long was it after the high-power firing, the firing from the high-power rifles, had ceased?—A. About eight or ten minutes.

Q. Then your best judgment, Lieutenant, is that when you got through counting your men there, it was eight or ten minutes after this high-power rifle firing ceased?—A. Yes, sir.

Q. Your quarters were how far from Company C?—A. You mean in a direct line?

Q. Yes.—A. About a hundred and twenty-five yards, I would say; pretty close to it.

Q. Then when you got there you had to go down a distance to find Major Penrose. Where did you find him?—A. I can show you right on the map. I found him right out here [indicating], right in front of the east end of B barracks.

Q. You call that the east end? Some of us have been confused on that.—A. Yes, sir.

Q. So that the distance would be substantially the same there to B barracks that you have given?—A. Yes, sir.

Q. And how long did it take you to make that distance? About ten seconds, you have stated, have you not?—A. No, sir.

Q. Some one, I think, went across there in ten seconds. Who was that?

Senator FORAKER. I think he revised that.

Senator WARNER. I thought he was a pretty good sprinter.

The WITNESS. I would say that it took me a minute to get over there, including the time of the conversation that I had with Harley. I ran after that, and I think I could get across there in thirty seconds.

Q. In thirty seconds?—A. Yes, sir.

Q. You think you could get across there in thirty seconds?—A. Yes, sir.

Q. Now, in this conversation when Mayor Combe came there and substantially charged, or did charge, that the shooting up of the town had been done by soldiers of the battalion, Major Penrose said, I believe, "I can not believe it; I can not believe it." He repeated it.—A. Yes, sir; he repeated it twice.

Q. He seemed to be very much distressed about it, did he not?—A. Yes, sir.

Q. Did you have a further talk with Major Penrose about 3 o'clock in the morning?—A. Yes, sir; I think I did; in fact, I am sure I did.

Q. Did you have any talk with him then about this?—A. Yes, sir; he was still of the same opinion; that he could not see how the soldiers had been implicated in this thing when they were all accounted for and the rifles were all accounted for.

Q. You, as adjutant, of course, I assume, were quite close to the major; that is, about affairs of the battalion?—A. In an official capacity; yes, sir.

Q. In an official capacity, yes. The next day, the 14th, you say the major again spoke of his thirty years' service; did you not, or did you?—A. Yes, sir.

Q. And you say he regretted this; and what did he say, if anything, about the evidence pointing to the men having done the shooting?—A. He said that when he saw these clips and bandoliers, he was very much inclined to believe some of his men had done it, or something to that effect.

Q. You knew the official report that Major Penrose made, did you not, with reference to that shooting?—A. I knew it, in substance; yes, sir.

Q. Did you, as adjutant, write it for him, at his dictation?—A. No, sir; he wrote it himself.

Q. Did he submit it to you after it was written?—A. No, sir; I never saw it until it was printed by the War Department.

Q. Then you saw it?—A. Yes, sir.

Q. In Major Penrose's report of August 15—which was two days after the shooting, was it not?—A. Yes, sir.

Q. (Continuing.) As given in Senate Document No. 155, at page 68, being a report signed at Fort Brown, Tex., and addressed to the military secretary of the Department of Texas, San Antonio, Tex., he says:

Were it not for the damaging evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime, but with this fact so painfully before me I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand. I have the affidavits from three noncommissioned officers who were in charge of quarters on the day and night, and they swear positively the rifles were verified and the racks locked after drill (practice march of Companies B and D, drill of Company C), and the old guard returned to the quarters; that they never left the quarters, and that the keys to the locks of the racks were never out of their possession, and that the racks were not opened until call to arms sounded, and were then opened by them.

From testimony gathered by the Citizens' Committee and given to me by Doctor Combe, I believe from seven to ten men were implicated in this matter. Some one of them must have had a key to the gun rack, and after check roll call was taken—for all were reported present at 11 p. m. roll call—they slipped out of quarters, did the shooting, returned while the companies were forming, and at some time during the early hours of the morning cleaned their rifles. This is made possible from the fact that the shooting all occurred within two short blocks of the barracks.

Major Penrose here speaks of slipping out of the barracks and back and cleaning their rifles, and he says this was "all made possible." What do you think of that?—A. It is a possibility; yes, sir.

Senator FORAKER. I did not catch that answer.

The WITNESS. I say it is a possibility.

By Senator WARNER:

Q. Did you have any talk with Major Penrose about this?—A. About what?

Q. About this report?—A. No, sir.

Q. Did you ever differ with him on that report?—A. I never heard Major Penrose say anything in regard to it except what he said before the Citizens' Committee that morning.

Q. As I understand, the next morning after the shooting you were convinced that men of the battalion were engaged in the shooting up of the town of Brownsville?—A. In a manner similar to that in which he was. In other words, the circumstantial evidence was such that no reasonable man could think, hardly, but what some soldiers had been implicated in it.

Q. Yes.—A. Because civilians do not usually carry around bandoliers and Government ammunition—

Q. No.—A. (Continuing.) For one thing—that is, ordinarily.

Q. So that no reasonable man would come to any other conclusion.—A. At that time.

Q. And after coming to that conclusion, you remained of that opinion until the men were discharged without honor?—A. Yes, sir.

Q. When was that?—A. That was sometime late in November; I think from about the 20th to the 26th of the month it took to discharge those men.

Q. And you were continually endeavoring to find out all you could regarding this shooting, were you not?—A. I was.

Senator SCOTT. May I ask him one question right there, if it will not interrupt you?

Senator WARNER. Certainly.

By Senator SCOTT:

Q. You say you tried to find out who did the shooting?—A. Yes, sir.

Q. Were you trying to find out whether somebody else than the soldiers did it, or were you trying to fix the blame on the soldiers?—

A. I was in a position, stationed at Fort Reno, where we could only get one side of the story. It would be impossible to get anything else. The soldiers never volunteered any information about the townspeople doing the shooting—never claimed so. They said they didn't know who did it, but they had not.

Q. But you did not try to find out whether somebody else did it but the soldiers. You were trying to fasten it on the soldiers?—A. Yes, sir; I was trying to find out something from the soldiers.

By Senator FORAKER:

Q. The question was asked you, and I do not want it to remain in that way, whether you were trying to fasten it on the soldiers?—

A. No, sir; I was not trying to fasten it on the soldiers, but I was trying to find out from some of the old men of the regiment, who had been with the regiment before I was born, that I knew were good old men, and would tell the truth, something to clear them.

Q. That is, it is a fact, is it not, Lieutenant, that instead of trying to fasten it on the soldiers, you were attached to your command, as any other officer would be?—A. Yes, sir.

Q. And that you were trying to clear them?—A. Yes, sir; that was my idea, to clear them, and if it had been any of the soldiers, to punish the four or five who did it. I wanted to get hold of those who did it, to save the rest of them.

Q. To save the rest of the command?—A. Yes, sir.

By Senator WARNER:

Q. And so you remained of this opinion, that a bunch of the soldiers had done the shooting up of Brownsville, from the 13th of August until what day, was it?—A. About the 20th of November.

Q. The 20th of November?—A. Up until the time General Garlington came to the post and delivered the ultimatum to the troops.

Q. What was there about that ultimatum that changed your opinion? What fact was there there that could possibly change your opinion, Lieutenant?—A. It was not the ultimatum itself, but it was the effect of it. When these men did not come up and give up anybody—the names of anybody implicated in that raid—when they knew if they did not there was not any joke about it, but they would all go out of the service, and I knew old men like Sergeant Sanders, that I have seen personally handle the meanest kind of a soldier, and handle him mighty well, I began right then to think there was considerable doubt about it. You could not convince me that a bad crowd could keep them from telling what they knew.

Q. Then you came to the conclusion that Sergeant Sanders did not know it?—A. Yes, sir.

Q. Did that convince you that nobody in the command did it?—A. I say there were a number of old soldiers.

Q. How many old soldiers did you talk to?—A. I talked to 50 or 100 of them; almost every one I met.

Q. And none of them suggested that the citizens had done the shooting?—A. They never said so.

Q. Not one of them?—A. They said they didn't know who did it, but that they had not.

Q. Did Sergeant Sanders, in any talk that you had with him, ever give you any fact that would indicate that the shooting was done by the citizens?—A. No, sir; he did not.

Q. Or by parties other than the soldiers?—A. No, sir; he did not.

Q. Major Penrose, to your knowledge, continued the investigation after your arrival at Fort Reno?—A. Yes, sir.

Q. Do you remember the fact of the order that Major Penrose issued on September 20, 1906—a report he made, rather, to the military secretary of the Department of Texas?—A. I do not. I was not at Fort Reno on that date.

Q. You remember to have seen it?—A. No, sir; I do not remember even seeing it. I was at Fort Brown on that date.

Senator FORAKER. To what page are you referring?

Senator WARNER. This is on page 105 of Senate Document No. 155. I will read the part that seems to be material.

By Senator WARNER:

Q. He says:

At first I was under the impression that these extra drills, police, and privations would have the effect of inducing some one who was not among the criminals, but who has knowledge of the guilty parties to the shooting at Brownsville, to give me some information that would lead to the detection of some of the men, but up to this time it has proven an utter failure and I doubt very much if it will ever accomplish the desired results. In fact I am of the opinion that it is having the contrary effect by keeping the men constantly on their guard, and this view is shared by the officers of the battalion as well as many of the old noncommissioned officers who are thoroughly reliable and trustworthy, and whose opinions in such a matter are worthy of consideration.

Were you one of the officers who shared in that opinion?—A. Yes, sir.

Q. Further he says in this report—

In view of this fact I respectfully suggest that one of the two following plans be authorized:

First. Take off all restrictions imposed. Return to the regular routine of post duty, and lead the men to believe the whole Brownsville matter has been dropped, but have three colored detectives enlisted and one assigned to each of the three companies.

Second. That authority be granted by the Secretary of War to discharge, if necessary, all but 20 per cent of the enlisted men of the three companies, the discharges to be so notated that enlistment again would be impossible.

Did you share in that?—A. Not in all of it.

Q. What part of it did you not share in?—A. That last part about the discharge of 20 per cent.

Q. You did not believe in discharging any of them?—A. Well, I did if it had done any good—that method. But in discharging 20 per cent, how would you be sure that you got the men that did the shooting?

Senator BULKELEY. He recommends the discharge of 80 per cent—all but 20 per cent.

The WITNESS. Yes; all but 20 per cent. In the 20 per cent there might be some of the men who did the shooting.

Senator WARNER. Yes.

Senator BULKELEY. Senator Warner, would you have any objection to inserting here the course of discipline that these men were put under?

Senator WARNER. I was coming to that. I intended to do that.

Senator BULKELEY. The first and second paragraphs, showing what punishments there were imposed on them.

Senator WARNER. I am coming back to that.

Senator BULKELEY. Very well; pardon the suggestion.

Senator WARNER. I am glad to have it, Senator.

By Senator WARNER:

Q. Continuing, he says in this report:

To carry out this latter suggestion, I would have it published to the men that on a certain specified date, a month later, for instance, if the criminals were not detected and reported, 20 per cent of each company would be discharged. At the end of a second period of thirty days, if the men still remained undetected, a second lot of 20 per cent of the original numbers of the companies would be discharged, and so on, in periods of thirty days, until but 20 per cent of the men are left. The men discharged, in all cases, to be selected by the company commanders. This latter is a drastic measure, and should, in my opinion, be resorted to only after the first suggestion had been given a fair trial and had proven a failure.

Did you agree in that?—A. If you want my opinion on it, yes, sir.

Q. You agreed on it?—A. I do not intend to criticise, you understand—

Q. You are here to give your opinion, Lieutenant. That is what we want.—A. Well, I do think that that thing was kept shoved up too close in front of the men all the time.

Q. You think if the first suggestion of Major Penrose had been adopted and the restrictions had been removed from the men and some detectives had been placed among them it would have had better results?—A. Yes, sir; and then, maybe, they would have gotten to talking.

Q. But when it was kept shoved up to them all the time, as you say—A. Kept constantly in front of them, in every shape and manner.

Q. That put them on their guard and had a tendency to prevent them from talking?—A. Yes, sir.

Q. That is your opinion?—A. Yes, sir.

Q. Now, the question as to the discipline in the case of these men. I find in the first paragraph of this same report I have been reading the following:

In obedience to the department commander's instructions, contained in your telegrams of August 26 and 28, the enlisted men of companies B, C, and D, Twenty-fifth Infantry, have been held at this post without privileges of any kind, and prior to arrival here, from August 14 to 27, were confined strictly to the limits of Fort Brown, Tex. Therefore they have had no liberty of any kind or character for over a month.

Since arriving at Fort Reno, in addition to allowing no privileges whatever and being confined within the limits of the post, I have given the enlisted men

of these companies extra guard, extra drills, and constant police work, besides having tattoo roll call for them, and always one and sometimes two check inspections after the regular 11 o'clock p. m. inspection.

As adjutant you were familiar with this, of course?—A. I was not adjutant when I got to Reno, but I was familiar with that order; yes, sir.

Q. And those were the restrictions placed upon them?—A. Yes, sir.

Q. And all through those restrictions, and up until the latter part of November, when the order was made discharging these men without honor, you continued of the opinion that it was men of the battalion who had done the shooting up of Brownsville?—A. Yes, sir; that is, all the evidence that I had was against the men.

Q. And all that you could get?—A. And all that I could get.

Q. And you were continually investigating, as far as you could?—A. Yes, sir.

Q. And other officers were, as far as you know, of the battalion, were they not?—A. They all were.

Q. They all were. Now, so that we will have it connected, what was it that occurred when General Garlington was there?—A. Well, he conducted an investigation, and had the men in to make sworn statements, and his investigation developed nothing new, so that the battalion was brought out where he could address it; and I think that was Friday of one week, and he told them if they did not deliver up the men that did the shooting on Monday he would recommend that every one of the soldiers that was present with the battalion in Brownsville be discharged without honor.

Q. Was there anything about that that changed your opinion as to the evidence and circumstances of the shooting up of Brownsville?—A. It was the effect that it produced on the men that impressed me.

Q. That is, instead of changing your opinion, you thought the effect produced on the men would prevent you getting information?—A. No, sir.

Q. What, then? What effect did it produce on the men?—A. When that ultimatum was delivered, and the men know that they had from Friday until Monday, the officers got busy with all the soldiers, especially the old noncommissioned officers, and put it right up to them, and told them what was in store for them; that there wasn't any bluff or joke about this proposition; that it was a sure thing—they would go out of the service if they did not tell. And we were not able to get anything out of them. And in addition to that was the behavior of those men when they were discharged. There was no need to have a battalion of another regiment up there at all. The post had never been in better condition, better order, better discipline, the whole time previous than right during the time those men were discharged.

Q. Is that all there was that would have an effect upon you as to who it was did the shooting?—A. All at that time. But there have been things since.

Q. What things since?—A. Evidence brought out in the Penrose court-martial.

Q. What evidence do you refer to?—A. I refer to the discrepancies in the testimony, in the evidence of witnesses for the prosecution, in regard to distances, and whether or not they could see men on such a night as that. Also the possibility of those people in Brownsville getting hold of Government ammunition, part of which has been brought up here.

Q. Then you still remained of the opinion, did you, practically until the Penrose court-martial evidence?—A. Yes, sir; it impressed a doubt upon my mind. I thought it was awfully funny that those men who were almost ready for retirement allowed themselves to be discharged without honor from the service simply to hide a bunch of criminals, if they were among them.

Q. What did you say about their getting Government ammunition at Brownsville—the citizens?—A. I say there is a possibility they could get it down there. It has been testified to.

Q. What kind of ammunition, Springfield ammunition?—A. Yes, sir; any kind.

Q. How could they? What was the possibility of their getting Springfield ammunition down there?—A. Well, there was ammunition left in the barracks down there; that has been testified to, I understand. Sergeant Osborn found some there when the Twenty-sixth Infantry left. Then it would have been a possibility to get those shells out of that box on the porch of B Company barracks.

Q. That is a possibility?—A. Yes, sir.

Q. And those shells could not have been fired—could those shells be fired—out of a Krag?—A. Well, I am not sure about that. I never tried it.

Q. Are they not too long?—A. I think they are.

Q. Could they be fired out of a Winchester?—A. I know that they can, but it is not from my own observation. It has been testified to by experts at the Penrose trial that they could be.

Q. Yes. Now, you speak of those empty shells?—A. Yes, sir.

Q. A party who would get those shells would have to reload them, would he not?—A. Not necessarily, for the purpose for which they were intended—that is, if that was a plot on the part of somebody in Brownsville to lay that thing to the soldiers, they could make use of those empty cartridge cases that they stole from B Company's back porch.

Q. Certainly. And you have come to that conclusion now, have you?—A. Not exactly. I say that is a possibility.

Q. Yes; it is a very remote possibility, is it not, Lieutenant?—A. Well, it is, rather; yes, sir.

Q. Yes.—A. There is nothing to sustain it.

Q. Yes; there is nothing to sustain it. Now, as to Corporal Madison, did you see him the night of the 13th when you went to your company?—A. Yes, sir.

Q. What became of him?—A. I sent him over to see if he could find Captain Macklin.

Q. You had already met a man who was going after Captain Macklin, had you not?—A. Yes, sir.

Q. Over near the quarters?—A. Yes, sir.

Q. Who was that?—A. Sergeant Harley.

Q. Did he report back?—A. Yes, sir.

Q. What did he report?—A. He did not report anything to me. I did not send him over to Captain Macklin. He said that he was going there. I did not ask him anything about it.

Q. But you sent Corporal Madison over?—A. On my own responsibility I sent Corporal Madison over there.

Q. Corporal Madison?—A. Yes, sir.

Q. What were your instructions to Corporal Madison?—A. I simply told him to go over to Captain Macklin's house and find out where he slept, and see if he was there, and if he was, to wake him up.

Q. At that time you were under the impression that the fort had been fired on?—A. Yes, sir.

Q. And what did you tell him to say to Captain Macklin?—A. I did not tell him to say anything. I knew that the man when he woke him up would tell him what was wrong, if he was in the house.

Q. That is, his own intelligence would make him do that?—A. Yes, sir.

Q. I did not know whether you told him what to say or not.—A. No, sir.

Q. How long was it after you gave him that order that you saw Corporal Madison again?—A. I saw him, I think it must have been, about five minutes—no; it was more than that. I did not see him again until I was out at the wall. Then he reported to me that he had gone over there and called, and called, downstairs, and could not get any answer. He said the Captain's saber was standing outside his front door.

Q. Yes; and he could get no answer?—A. He could get no answer.

By Senator SCOTT:

Q. And he was the captain of this company that you took charge of?—A. Captain Macklin; yes, sir.

Senator BULKELEY. He was the officer of the day.

Senator WARNER. There is no question about that. That is all straight.

By the CHAIRMAN:

Q. Captain Macklin was the officer of the day, was he not?—A. Yes, sir.

Q. What was the custom, or what had been the custom, as to the officer of the day; was he on duty throughout the night—supposed to be on duty, or up, all night?—A. He is on duty, but there is nothing in the regulations that prohibits him from going to bed after he takes his last check, after 11 o'clock.

Q. The custom was, then, that they should go to bed?—A. Yes, sir.

Q. Then there would be an officer of the guard on duty, would there not?—A. No, sir; that is the reason why the custom of the service is to permit the officer of the day to go to bed, because when they have an officer of the guard the officer of the guard makes all the inspections of the guard, but when they are short of officers the officer of the day has to do both—that is, to inspect the guard and perform the routine post duties of officer of the day in addition, and he is kept pretty busy right up to midnight.

Senator BULKELEY. I only wanted that part of it inserted in connection with the rest of it, so that the whole of the report would be complete.

Senator WARNER. I ask that right in this connection this report, together with the previous one, be inserted in the record at this point.

Senator BULKELEY. I thought in justice to the men that part of it ought to go in with the other.

Senator WARNER. Yes. I will ask to have inserted in the record at this point the report of Major Penrose, found on pages 66 to 69 of Senate Document No. 155, dated August 15, 1906, and also the report of Major Penrose dated September 20, 1906, found on pages 105 and 106 of Senate Document No. 155.

(The documents referred to are here printed in the record, as follows:)

FORT BROWN, TEX., August 15, 1906.

The MILITARY SECRETARY.

Department of Texas, San Antonio, Tex.

SIR: In connection with my telegram of yesterday, relative to the shooting that occurred in the city of Brownsville, Tex., I have the honor to submit the following report:

At 12.10 a. m. the garrison was aroused by a fusillade of shots, which, apparently, were being fired from behind the brick wall bounding the north side of the post, and from which the barracks are located not more than 100 feet. This fusillade lasted from eight to ten minutes, and a hundred or more shots must have been fired, giving me the impression the garrison was being attacked, and I consequently gave the order to fall in under arms, which was done with but little delay, considering the confusion and the fear of lighting the lamps in the barracks. The roll was called in each company, and all were reported present but two men from Company C, who were on pass. I then posted my entire command behind the brick wall before mentioned, which was accomplished in a short time after the firing had ceased, and, as everything had become perfectly quiet, in the course of half an hour I sent Captain Lyon, with his company (D), to look through the lower part of the town for the two men on pass, fearing something might have happened to them.

Captain Lyon was gone about three-quarters of an hour, and returned without finding the men or meeting with any opposition. Returning with Captain Lyon was the mayor of Brownsville, Doctor Combe, who reported to me that one civilian of the city had been killed and the chief of police badly wounded in the right arm, his horse being killed under him, and claimed the killing and wounding had been done by soldiers; but at that time I felt confident he was mistaken, as all men had been reported present except the two on pass, and to make sure I again had the rolls called, and received the same report from each company commander, "All present, or accounted for," the two men from C Company still being absent.

I kept the entire garrison under arms until 3.30 a. m., and then placed one company, C, on guard, in addition to the regular guard, and formed a cordon of sentinels around the north and east side of the post, the exposed portion, with the most stringent orders to allow no one to leave the post, and no one to enter it except the mayor, and such other person as he, the mayor, might wish to bring in to see me. The other two companies were allowed to return to their barracks.

As an additional check, as soon as it was light enough to see, I had every rifle in the barracks and in the hands of the men inspected, to learn whether or not they had been fired, but all were found to be bright and clean.

The mayor again called upon me about 10 a. m., and informed me a few empty cartridge cases and used clips for our Springfield rifle had been found in the streets, and later in the morning told me there had been picked up between 75 and 100 empty cases and used clips, as well as a few cartridges that had not been fired. Some of these I examined, and there is no doubt they are those manufactured by our Ordnance Department and issued to the troops.

At 11.30 a. m. a committee of 15 citizens of Brownsville, headed by the mayor, called upon me, and through their chairman, Capt. William Kelly, a Union volunteer veteran of the civil war, informed me they had positive proof, by

several reliable witnesses, that the shooting was done by colored soldiers, in uniform, and requested I cause the offenders' arrest and turn them over to the civil authorities. The mayor, Doctor Combe, then spoke and said that he had examined the dead, and wounded man, and there was no doubt in his mind the wounds were caused by a bullet fired from a Springfield rifle, or some rifle with a similar penetrating power.

Here it will be well for me to state that Doctor Combe served as a volunteer surgeon during the Spanish-American war, was a brigade surgeon during the greater part of the Philippine insurrection, and is at the present time employed to attend the sick of the post during the absence of a surgeon.

I then expressed my deep regret to the committee that such a frightful crime should have happened, and that the evidence pointed so strongly to its being committed by my men; and while it had been impossible for me up to the present time to fix the blame upon anyone, I should never cease my endeavors to detect the criminal or criminals, and if found would promptly turn them over to the proper authorities. In conclusion, I assured them nothing of the kind would occur again, and explained to them the precautions I had taken. The mayor then told me he was positive he was able to hold the unruly element of the city in check, and this was voiced by the committee, who then took their departure. We parted with the best of understanding between us, and I trust the cordial feeling will maintain throughout this very trying period.

Yesterday and last night passed without the slightest indication of further trouble of any kind. I still have one-third of my command—one company—on guard day and night, with the same stringent orders as to leaving or entering the post, the only exception being civilian employees and servants.

Were it not for the damaging evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime, but with this fact so painfully before me, I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand. I have the affidavits from three noncommissioned officers who were in charge of quarters on the day and night, and they swear positively the rifles were verified and the racks locked after drill (practice march of Companies B and D, drill of Company C), and the old guard returned to the quarters; that they never left the quarters, and that the keys to the locks of the racks were never out of their possession, and that the racks were not opened until call to arms sounded, and were then opened by them.

From testimony gathered by the Citizens' Committee and given to me by Doctor Combe, I believe from seven to ten men were implicated in this matter. Some one of them must have had a key to the gun rack, and after check roll call was taken—for all were reported present at 11 p. m. roll call—they slipped out of quarters, did the shooting, returned while the companies were forming, and at some time during the early hours of the morning cleaned their rifles. This is made possible from the fact that the shooting all occurred within two short blocks of the barracks.

I am conducting the most rigid examination possible, examining every man and working in conjunction with the Citizens' Committee, and I believe the offenders will be apprehended, although it will take time. The best of the men are very much perturbed over the matter, and I believe through them, rather than my own efforts, the perpetrators of this wanton crime will be apprehended.

That the enlisted men have been subjected to indignities since their arrival here there can be no doubt, and this has caused a good deal of feeling among them, and to one case I attribute this outbreak, the subject of which I will make an official report as soon as the collector of customs, Mr. Vann, returns to the city.

On the evening of August 5, Private Newton, of Company C, was walking on Elizabeth street, in the city of Brownsville, with Private Lipscomb, same company. When about a block north of the post-office they met a party of ladies standing on the sidewalk, talking to a man by the name of Tate, who is employed in the customs service. To pass this party, the men passed between them and the fence, in single file, Newton leading. Newton claims in his affidavit that he did not even touch one of the ladies in passing, but when opposite this man Tate, he, Tate, drew a revolver from his hip pocket and struck Newton upon the side of the head with it, knocking him down, at the same time saying, "I'll learn you to get off the sidewalk when there is a party of ladies on the walk." When Newton rose to his feet Tate covered him with his revolver and said, "Damn you, leave, or I will blow your brains out." This is corroborated by Private Lipscomb.

I at once wrote a letter to Mr. John W. Vann, collector of customs, informing him of the matter, and requested he would make such investigation of the occurrence as he might see fit and notify me of the result. Mr. Vann being out of town, my communication was replied to by Mr. Browne, deputy collector of customs, who requested me to await action until Mr. Vann returned, which, of course, I was very glad to do.

On the afternoon of the 13th, at about 5 o'clock, a Mr. Evans, of Brownsville, accompanied by Doctor Combe, called upon me, and the former told me that on the evening before his wife, when returning home and when about to enter her back gate, was seized from behind by a colored man who, she was positive, was a soldier, as he was in khaki uniform, but whom she could not identify, and he further stated he had been greatly annoyed by enlisted men congregating near his house the two previous evenings—by their vulgar conversation and swearing. His statement that his wife was seized by a soldier I was inclined to doubt, as prostitutes are too common in the town, but as the matter was a most serious one, and fearing the matter would inflame the people, as well as to save Mr. Evans any further annoyance, I ordered all passes canceled at 8 o'clock, and sent a patrol through the city notifying all men to return to the post at that hour. At 8 o'clock I sent out a second patrol, and at 9 a third one, which reported that no men could be found. Captain Macklin, the officer of the day, also went through that part of the city most frequented by the men, but found no one. Mr. Evans is unfortunate in living very near the Tenderloin, but to protect him it was my intention to send patrols to that part of the city every evening, and frequently, if necessary.

These two incidents have served to cause bad blood between the citizens and the soldiers.

I have not been able to investigate his charges that his wife was seized by a soldier, as the shooting came too closely upon it and has occupied all of my attention. Fortunately, Mrs. Evans was not harmed, save the terrible fright it gave her.

I look for no further trouble, and trust my actions will meet with the approval of the department commander.

Very respectfully,

C. W. PENBOSE,

Major, Twenty-fifth Infantry, Commanding.

FORT RENO, OKLA., September 20, 1906.

THE MILITARY SECRETARY,

Department of Texas, San Antonio, Tex.:

In obedience to the department commander's instructions, contained in your telegrams of August 26 and 28, the enlisted men of Companies B, C, and D, Twenty-fifth Infantry, have been held at this post without privileges of any kind, and prior to arrival here, from August 14 to 27, were confined strictly to the limits of Fort Brown, Tex. Therefore they have had no liberty of any kind or character for over a month.

Since arriving at Fort Reno, in addition to allowing no privileges whatever and being confined within the limits of the post, I have given the enlisted men of these companies extra guard, extra drills, and constant police work, besides having tattoo roll call for them, and always one and sometimes two check inspections after the regular 11 o'clock p. m. inspection.

At first I was under the impression that these extra drills, police, and privations would have the effect of inducing some one who was not among the criminals, but who has knowledge of the guilty parties to the shooting at Brownsville, to give me some information that would lead to the detection of some of the men, but up to this time it has proven an utter failure, and I doubt very much if it will ever accomplish the desired results. In fact I am of the opinion that it is having the contrary effect, by keeping the men constantly on their guard, and this view is shared by the officers of the battalion, as well as many of the old noncommissioned officers who are thoroughly reliable and trustworthy, and whose opinions in such a matter are worthy of consideration.

In view of this fact I respectfully suggest that one of the two following plans be authorized:

First. Take off all restrictions imposed. Return to the regular routine of post duty, and lead the men to believe the whole Brownsville matter has been dropped, but have three colored detectives enlisted and one assigned to each of the three companies.

Second. That authority be granted by the Secretary of War to discharge, if necessary, all but 20 per cent of the enlisted men of the three companies, the discharges to be so notated that enlistment again would be impossible.

To carry out this latter suggestion, I would have it published to the men that on a certain specified date, a month later, for instance, if the criminals were not detected and reported, 20 per cent of each company would be discharged. At the end of a second period of thirty days, if the men still remained undetected, a second lot of 20 per cent of the original numbers of the companies would be discharged, and so on, in periods of thirty days, until but 20 per cent of the men are left. The men discharged, in all cases, to be selected by the company commanders. This latter is a drastic measure, and should, in my opinion, be resorted to only after the first suggestion had been given a fair trial and had proven a failure.

I am strongly of the opinion that but few men have any knowledge of the deplorable Brownsville affair, but it is quite evident these few will never betray their comrades under present conditions. The majority of the men, particularly the old soldiers who have served their country for years gallantly and faithfully and borne themselves honorably, feel this matter very deeply, and, I believe, are doing all they can to detect the guilty; but it must be remembered the negro race is a very secretive one, and those having knowledge of the shooting, without being participants, will hesitate a long time under most adverse conditions before giving information.

I recommend that the first plan be given a fair trial, for once the present restraint is removed and the men given the usual liberty they will be much more apt to talk, and especially after drinking a little; but to be reasonably hopeful of success detectives must be employed.

Very respectfully,

C. W. PENROSE,
Major, Twenty-fifth Infantry, Commanding.

By Senator WARNER:

Q. Returning, now, to Corporal Madison, how long was it before he returned to you, do you say?—A. I do not remember how long it was, but it was when I was out at the wall there.

Q. Was it not in the neighborhood of an hour before you saw him again?—A. Yes, sir; it was pretty close to it. I think he saw Major Penrose before he saw me again. I think Major Penrose sent him off on a patrol, or something.

Q. A patrol to see after the horses?—A. Yes, sir.

Q. Was not that a little singular to you, that when he was going to the captain to find him and report to you he should go to see about how the horses were?—A. Not necessarily. He might have met the commanding officer and told him that he had been over to Captain Macklin's and could not find him. It seems to me that I told him to report to the commanding officer. Whether he found him there or not he might have gone to the commanding officer and told him that he was not there, and just because he was a man right at hand the major would say, "I want you to do so and so," and send him off on some other business.

Q. Have you not testified that you thought it was very strange, his not reporting to you in so long a time?—A. Yes, sir; it seems to me I did, at the Penrose trial; I wondered what had become of Madison after a while.

Q. Yes; and to refresh your memory, was it not after Captain Lyon's company had gone down into the town and made a patrol and come back before Corporal Madison reported back to you at the

wall?—A. Yes, sir; just about. He reported to me and Captain Macklin joined then, and I walked back to the gate.

Q. So that Captain Macklin reported about the time that Madison did?—A. Yes, sir.

Q. As to Sergeant Brawner, the officer in charge of quarters, you went up stairs that night, up into the men's quarters?—A. Yes, sir.

Q. For the purpose of seeing if any men were up there, did you not?—A. Yes, sir.

Q. When was that with reference to the time that you went along in front of the men when they were in front of quarters?—A. Before.

Q. Before. Could you see who were up there at that time?—A. No, sir; you could not. It was all dark, and I do not even remember the man. I do not believe I knew him—the man that was up there.

Q. But you found one man who had gotten—I believe you said it was Miller's gun?—A. Yes, sir.

Q. Did you hear or see anything of Sergeant Brawner when you got there?—A. I do not—I do not remember seeing him that night at all. He was accounted for at the roll call as usual, "Sergeant Brawner, so and so, in charge of quarters," and that was all.

Q. That was all?—A. Yes, sir.

Q. And when you heard that he had refused to open the gun racks until he got orders—I am not quoting that exactly, but whatever the language may have been—from the commanding officer, did you call out for him then?—A. No, sir. When I heard about that, Senator, was when I met Sergeant Harley coming across the parade ground there. He said, in addition to what I have already said there—I remember now that he said—"Sergeant Brawner will not open the gun racks, and I am going to get the captain; he will not open the gun racks until the captain says so."

Q. Major Penrose was there at that time?—A. Yes, sir; and when I got to the barracks Major Penrose had already, before I got over there, given the order to break open the gun racks.

Q. Did not that strike you as a little queer? Did you ask, when you got over there, where Sergeant Brawner was?—A. No, sir.

Q. You made no inquiry at all?—A. I did not.

Q. You heard the gun racks being broken open?—A. Yes, sir; they were broken open before I got inside of the barracks.

Q. I say, you heard that?—A. Yes, sir.

Q. And you made no inquiry whatever about Sergeant Brawner?—A. I did not.

Q. You said that you did not see him at any time that night. Did you make any inquiry afterwards of him?—A. No, sir.

Q. As to where he was?—A. No, sir.

Q. Or as to why he had not opened the gun racks?—A. No, sir; I did not.

Q. Now, then, when the men that night were discharged and sent to quarters, after you had been out at the wall, did you go upstairs again?—A. No, sir; I never went inside the barracks again from that day to this.

Q. You were ordered to check the rifles, were you not?—A. When was that, sir?

Q. The night of the 13th, by Major Penrose.—A. Do you mean after we were out at the wall?

Q. Yes.—A. No, sir; I was not ordered to.

Q. Were the company commanders ordered to?—A. Yes, sir.

Q. You were then commanding the company, were you?—A. No, sir.

Q. You were not?—A. Captain Macklin had joined then, and I delivered the order.

Q. So that you did not go there at all?—A. No, sir.

Q. As to the character of this night; it was a dark night?—A. Yes, sir; a dark, starlit night.

Q. So that when you met the sergeant, you could not tell who he was until he got within a very few feet of you?—A. About as close as I am to you.

Q. So that it may be in the record—that is about how far?—A. About 5 or 6 feet.

Senator SCOTT. It is nearer 9 feet.

Senator WARNER. We are doing this.

Senator BULKELEY. It is more than 6 feet.

Senator SCOTT. Say 9 feet.

By Senator BULKELEY:

Q. When you met a man on the parade ground at that distance, could you tell whether he was a white man or a black man?—A. I could tell that he was a soldier, because he had khaki on; but I could not see his face until he got right up close to me.

Q. At that distance you could not tell, on the parade ground, whether he was a white man or a black man?—A. No, sir; I could not, sir.

By Senator WARNER:

Q. There was no light there?—A. Yes, sir; there was. There was a light on the officers' line, right in front of Captain Lyon's quarters. I passed out beyond that on the parade, about 20 yards in front.

Q. Did you have the benefit of that light when you met the sergeant?—A. No, sir; I did not.

Q. You did not mean that if you had the benefit of a lamplight you could not tell a colored man?—A. No, sir.

Senator BULKELEY. I did not mean with a lamplight, but I wanted to know whether he could tell a colored man in the dark.

Senator WARNER. I am not criticising; I just wanted to understand it.

By Senator WARNER:

Q. So that when you moved your company around in front of the wall, there, B Company was already in position?—A. Yes, sir.

Q. Where was D Company?—A. D Company was west of the gate.

Q. That was in position also?—A. Yes, sir.

Q. So that your company was the last one that got in position at the wall?—A. Yes, sir.

Q. And you deployed as skirmishers?—A. Yes, sir.

Q. And it was after you deployed as skirmishers that you had the roll call?—A. Senator, I did not have any roll call out there at all.

Q. That was after Captain Macklin joined?—A. Yes, sir; that was after he joined.

Q. Now, we will see. Then, how long were you with that company out there at the wall before Captain Macklin joined it?—A. One hour, almost to a minute; one hour.

Q. So that during that hour there was no roll call at all?—A. No, sir; no chance to have one.

Q. Did you have any lantern there?—A. No, sir.

Q. You did not send anybody up for a lantern?—A. No, sir; not that I recall. I do not believe there was a lantern out there.

Q. You have said something about the time it takes to clean a rifle. How many minutes did you place it at, to clean a rifle?—A. To clean one well, all parts, forty or fifty minutes. I would say.

Q. As we have some evidence upon that question, please tell us what there is about cleaning a rifle that would occupy forty or fifty minutes.—A. Well, to clean a rifle properly it is not merely necessary to go to work and take an oiled rag and run it up and down the bore of the rifle to remove all traces of dust or powder stain or rust—if there is rust in it, it takes a good while to get it out—but, in addition to that, in the act of cleaning the bore, which is cleaned first, the oil and the refuse from the barrel gets down into the chamber, into the magazine, and into the cut-off.

Q. Yes; while you are cleaning the gun?—A. Yes, sir; the running oil, and the dripping oil from the rag, is bound to get in there. Now, a gun is not called clean and suitable for inspection until all such traces of oil and grease, in addition to the dirt, are removed, and to get that oil out and to clean the breech mechanism properly in the magazine and the chamber it is necessary to take a pine stick, or a stick of some soft wood that will not spoil the bluing on the steel, and follow that all around in the crevices, and dig that out, and anybody who has ever cleaned a gun knows that to clean it well it will take pretty close to an hour to do it.

Q. To clean a gun to remove the powder stains, just simply to clean the bore for that purpose, how long does it take?—A. It takes, in daylight, about ten minutes. I can tell you what they thought about the length of time it took to clean a gun at the Military Academy. Whenever a cadet was reported at West Point for having a dirty rifle, he could never get that report removed until he had stated on honor that he had worked on his gun, cleaning it, for an hour.

Q. That is, that was the punishment given?—A. Yes, sir.

Q. In order that he should clean it?—A. No, sir; but in order that he should have that report removed, he must state on honor that in preparing that gun for inspection he had spent at least an hour's time on it.

Q. I will read to you from your evidence, on page 753, of part 5, of the Penrose court-martial:

Q. Is there a thong or cleaning string of any kind kept in the butt of the piece, together with the brush wiper?—A. Yes.

Q. Is that thong provided with a metal top in which a rag can be inserted?—A. Yes.

Q. And the rifle can be cleaned in that way effectively, in case one has a piece of rag?—A. Yes; it can be. I think it is a longer operation.

Q. It takes longer, doubtless, than it does with a ramrod; but in case a rifle is cleaned within a very short time after it has been fired, and particularly if only a dozen or fifteen shots have been fired from it, is it a very difficult operation to remove powder stains at that time?—A. Not particularly so; no.

Q. And even with this thong and a piece of oiled rag, how long would it take a man to clean a rifle so that the barrel would show no signs of powder for a

number of hours at any rate after it was cleaned?—A. You mean just the barrel itself, not the whole gun?

Q. Just the barrel and the end of the breech bolt; not the whole gun.—A. It would take five to seven minutes, I should say, to clean it well.

Do you wish to change that testimony any?—A. Well, it depends on the conditions. They specified there a certain number of shots, and the rifle cleaned within a few hours after the firing?

Q. Yes.—A. I am taking a gun that was fired, say, to-night, and cleaned to-morrow morning; and that makes a difference.

Q. Well, if it was fired at 12 o'clock and cleaned at 6 o'clock, it would be only a few hours, would it?—A. Yes, sir; that would be longer. The quicker you get at cleaning a gun after it is fired, the easier it is to clean it.

Q. So that with this appliance that you have spoken of here, if the soldier attempted to clean the gun within an hour or two after it was fired, it would be a relatively easy job compared with what it would be if it remained a number of hours?—A. Yes, sir; much easier.

Q. And if he attempted to clean it within two or three hours or such a matter after the firing, the testimony you gave before the court-martial as to the time for cleaning is correct, is it?—A. Yes, sir.

Q. And you still adhere to it?—A. Yes, sir; that was a fixed case they gave me there.

Q. Well, I am giving you a fixed case now; a gun cleaned within a few hours afterwards, within two or three hours?—A. I would like to have the stenographer read the Senator's question.

Q. Let me give it to you again. If the gun was cleaned within two or three hours, would that come within your definition before the court-martial?—A. Yes, sir; five to seven minutes.

By Senator BULKELEY:

Q. That is, to clean the barrel and the bolt head?—A. Yes, sir.

By Senator WARNER:

Q. That would remove all signs of powder?—A. Yes, sir; that would remove all signs of powder.

Q. Yes.—A. That is, if they can see to do it.

Q. Well, we are not saying anything about seeing now; we are just talking about cleaning a gun.—A. You mentioned between 12 o'clock and 6 o'clock in the morning.

Q. No; I asked within two or three hours after the firing.—A. You said between 12 and 6 o'clock in the morning, though.

Q. No; I said afterwards two or three hours. But we will have no trouble about that, Lieutenant; the question will stand. I just wanted to get the fact.—A. Yes, sir.

Q. There are a woodhouse and an oil house and sink in rear of quarters. There are such buildings in rear of each barracks, are there?—A. Yes, sir.

Q. How near are they to the wall?—A. Well, the sinks are right up against the wall.

Q. How about the woodhouse and the oil house?—A. The oil house, as I remember it, is right against the wall, but the wood shed is closer to the barracks.

Q. So that during that hour there was no roll call at all?—A. No, sir; no chance to have one.

Q. Did you have any lantern there?—A. No, sir.

Q. You did not send anybody up for a lantern?—A. No, sir; not that I recall. I do not believe there was a lantern out there.

Q. You have said something about the time it takes to clean a rifle. How many minutes did you place it at, to clean a rifle?—A. To clean one well, all parts, forty or fifty minutes. I would say.

Q. As we have some evidence upon that question, please tell us what there is about cleaning a rifle that would occupy forty or fifty minutes.—A. Well, to clean a rifle properly it is not merely necessary to go to work and take an oiled rag and run it up and down the bore of the rifle to remove all traces of dust or powder stain or rust—if there is rust in it, it takes a good while to get it out—but, in addition to that, in the act of cleaning the bore, which is cleaned first, the oil and the refuse from the barrel gets down into the chamber, into the magazine, and into the cut-off.

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Q. How near are they to the wall?—A. Well, the sinks are right up against the wall.

Q. How about the woodhouse and the oil house?—A. The oil house, as I remember it, is right against the wall, but the wood shed is closer to the barracks.

of these companies extra guard, extra drills, and constant police work, besides having tattoo roll call for them, and always one and sometimes two check inspections after the regular 11 o'clock p. m. inspection.

As adjutant you were familiar with this, of course?—A. I was not adjutant when I got to Reno, but I was familiar with that order; yes, sir.

Q. And those were the restrictions placed upon them?—A. Yes, sir.

Q. And all through those restrictions, and up until the latter part of November, when the order was made discharging these men without honor, you continued of the opinion that it was men of the battalion who had done the shooting up of Brownsville?—A. Yes, sir; that is, all the evidence that I had was against the men.

Q. And all that you could get?—A. And all that I could get.

Q. And you were continually investigating, as far as you could?—A. Yes, sir.

Q. And other officers were, as far as you know, of the battalion, were they not?—A. They all were.

Q. They all were. Now, so that we will have it connected, what was it that occurred when General Garlington was there?—A. Well, he conducted an investigation, and had the men in to make sworn statements, and his investigation developed nothing new, so that the battalion was brought out where he could address it; and I think that was Friday of one week, and he told them if they did not deliver up the men that did the shooting on Monday he would recommend that every one of the soldiers that was present with the battalion in Brownsville be discharged without honor.

Q. Was there anything about that that changed your opinion as to the evidence and circumstances of the shooting up of Brownsville?—A. It was the effect that it produced on the men that impressed me.

Q. That is, instead of changing your opinion, you thought the effect produced on the men would prevent you getting information?—A. No, sir.

Q. What, then? What effect did it produce on the men?—A. When that ultimatum was delivered, and the men know that they had from Friday until Monday, the officers got busy with all the soldiers, especially the old noncommissioned officers, and put it right up to them, and told them what was in store for them; that there wasn't any bluff or joke about this proposition; that it was a sure thing—they would go out of the service if they did not tell. And we were not able to get anything out of them. And in addition to that was the behavior of those men when they were discharged. There was no need to have a battalion of another regiment up there at all. The post had never been in better condition, better order, better discipline, the whole time previous than right during the time those men were discharged.

Q. Is that all there was that would have an effect upon you as to who it was did the shooting?—A. All at that time. But there have been things since.

Q. What things since?—A. Evidence brought out in the Penrose court-martial.

Q. What evidence do you refer to?—A. I refer to the discrepancies in the testimony, in the evidence of witnesses for the prosecution, in regard to distances, and whether or not they could see men on such a night as that. Also the possibility of those people in Brownsville getting hold of Government ammunition, part of which has been brought up here.

Q. Then you still remained of the opinion, did you, practically until the Penrose court-martial evidence?—A. Yes, sir; it impressed a doubt upon my mind. I thought it was awfully funny that those men who were almost ready for retirement allowed themselves to be discharged without honor from the service simply to hide a bunch of criminals, if they were among them.

Q. What did you say about their getting Government ammunition at Brownsville—the citizens?—A. I say there is a possibility they could get it down there. It has been testified to.

Q. What kind of ammunition, Springfield ammunition?—A. Yes, sir; any kind.

Q. How could they? What was the possibility of their getting Springfield ammunition down there?—A. Well, there was ammunition left in the barracks down there; that has been testified to, I understand. Sergeant Osborn found some there when the Twenty-sixth Infantry left. Then it would have been a possibility to get those shells out of that box on the porch of B Company barracks.

Q. That is a possibility?—A. Yes, sir.

Q. And those shells could not have been fired—could those shells be fired—out of a Krag?—A. Well, I am not sure about that. I never tried it.

Q. Are they not too long?—A. I think they are.

Q. Could they be fired out of a Winchester?—A. I know that they can, but it is not from my own observation. It has been testified to by experts at the Penrose trial that they could be.

Q. Yes. Now, you speak of those empty shells?—A. Yes, sir.

Q. A party who would get those shells would have to reload them, would he not?—A. Not necessarily, for the purpose for which they were intended—that is, if that was a plot on the part of somebody in Brownsville to lay that thing to the soldiers, they could make use of those empty cartridge cases that they stole from B Company's back porch.

Q. Certainly. And you have come to that conclusion now, have you?—A. Not exactly. I say that is a possibility.

Q. Yes; it is a very remote possibility, is it not, Lieutenant?—A. Well, it is, rather; yes, sir.

Q. Yes.—A. There is nothing to sustain it.

Q. Yes; there is nothing to sustain it. Now, as to Corporal Madison, did you see him the night of the 13th when you went to your company?—A. Yes, sir.

Q. What became of him?—A. I sent him over to see if he could find Captain Macklin.

Q. You had already met a man who was going after Captain Macklin, had you not?—A. Yes, sir.

Q. Over near the quarters?—A. Yes, sir.

Q. Who was that?—A. Sergeant Harley.

Q. Did he report back?—A. Yes, sir.

Q. What did he report?—A. He did not report anything to me. I did not send him over to Captain Macklin. He said that he was going there. I did not ask him anything about it.

Q. But you sent Corporal Madison over?—A. On my own responsibility I sent Corporal Madison over there.

Q. Corporal Madison?—A. Yes, sir.

Q. What were your instructions to Corporal Madison?—A. I simply told him to go over to Captain Macklin's house and find out where he slept, and see if he was there, and if he was, to wake him up.

Q. At that time you were under the impression that the fort had been fired on?—A. Yes, sir.

Q. And what did you tell him to say to Captain Macklin?—A. I did not tell him to say anything. I knew that the man when he woke him up would tell him what was wrong, if he was in the house.

Q. That is, his own intelligence would make him do that?—A. Yes, sir.

Q. I did not know whether you told him what to say or not.—A. No, sir.

Q. How long was it after you gave him that order that you saw Corporal Madison again?—A. I saw him, I think it must have been, about five minutes—no; it was more than that. I did not see him again until I was out at the wall. Then he reported to me that he had gone over there and called, and called, downstairs, and could not get any answer. He said the Captain's saber was standing outside his front door.

Q. Yes; and he could get no answer?—A. He could get no answer.

By Senator SCOTT:

Q. And he was the captain of this company that you took charge of?—A. Captain Macklin; yes, sir.

Senator BULKELEY. He was the officer of the day.

Senator WARNER. There is no question about that. That is all straight.

By the CHAIRMAN:

Q. Captain Macklin was the officer of the day, was he not?—A. Yes, sir.

Q. What was the custom, or what had been the custom, as to the officer of the day; was he on duty throughout the night—supposed to be on duty, or up, all night?—A. He is on duty, but there is nothing in the regulations that prohibits him from going to bed after he takes his last check, after 11 o'clock.

Q. The custom was, then, that they should go to bed?—A. Yes, sir.

Q. Then there would be an officer of the guard on duty, would there not?—A. No, sir; that is the reason why the custom of the service is to permit the officer of the day to go to bed, because when they have an officer of the guard the officer of the guard makes all the inspections of the guard, but when they are short of officers the officer of the day has to do both—that is, to inspect the guard and perform the routine post duties of officer of the day in addition, and he is kept pretty busy right up to midnight.

Q. Do I understand that after midnight there was no officer on duty, commissioned or noncommissioned?—A. No, sir; the noncommissioned officer of the guard is always on duty. The custom is usually to have—

The CHAIRMAN. In my time the officer of the day was on duty all night, but I wanted to get what the custom was.

Senator BULKELEY. That was war times; that was war.

The CHAIRMAN. War and peace, too.

By the CHAIRMAN:

Q. The officer on duty at night was the same officer all night, or was he changed? Did you have different reliefs, and would there be a different noncommissioned officer on duty in different parts of the night?—A. At Fort Brown we had two sergeants and three corporals of the guard. One sergeant acted as commander of the guard and one as sergeant of the guard, and each corporal had a relief, and they relieved each other every two hours.

Q. The sergeants would divide the duty?—A. They would divide the night, and take half the night each.

Q. So that there would really be a sergeant on duty the last part of the night?—A. Yes, sir.

Q. And one corporal—A. The one whose relief was on post would be on duty.

Q. The one whose relief was on post; and the corporal and men who were on post were relieved once every two hours?—A. They were relieved once every two hours. They were on post two hours and four hours off.

Senator BULKELEY. Will you allow me to ask him a question here? Senator WARNER. Certainly.

By Senator BULKELEY:

Q. You had some sections of this report of Major Penrose read to you. I would like to read to you a section myself, which is on page 106:

I am strongly of the opinion that but few men have any knowledge of the deplorable Brownsville affair, but it is quite evident these few will never betray their comrades under present conditions. The majority of the men, particularly the old soldiers who have served their country for years gallantly and faithfully and borne themselves honorably, feel this matter very deeply, and, I believe, are doing all they can to detect the guilty; but it must be remembered the negro race is a very secretive one, and those having knowledge of the shooting, without being participants, will hesitate a long time under most adverse conditions before giving information.

I recommend that the first plan be given a fair trial, for once the present restraint is removed and the men given the usual liberty they will be much more apt to talk, and especially after drinking a little, but to be reasonably hopeful of success detectives must be employed.

Senator SCOTT. Whose report is this you are reading from?

Senator BULKELEY. The report of Major Penrose.

Senator WARNER. I was going to say that this would all be inserted in connection with this witness's evidence.

By Senator BULKELEY:

Q. Now, did you sympathize with that part of the report as you did with some others, or did you disagree with that?—A. I sympathized with the plan, sir.

this charge against them, that they had been guilty of shooting up the town of Brownsville?—A. Yes, sir; I was.

Q. And you were not conducting any examination for the purpose of showing that they were guilty, but you wanted to get at the facts, and were anxious, if possible, to show that they were not guilty, were you not?—A. Yes, sir; that was my idea.

Q. That is true; yes.

Senator FORAKER. But nevertheless he proceeded upon the assumption that they were guilty, after he saw the shells.

Senator WARNER. May I proceed with this witness?

Senator FORAKER. Excuse me. I thought you were through.
(Informal discussion between members of the committee followed.)

By Senator PETTUS:

Q. Lieutenant, of what State are you a native?—A. I am from Pennsylvania, sir.

Q. Pennsylvania?—A. Yes, sir.

Q. Had you ever lived in any other State prior to your entrance to the Army?—A. No, sir.

Senator PETTUS. That is all.

By Senator WARNER:

Q. I asked you about your examination and that of the other officers, that you were anxious, if possible, to get some evidence that would remove the charge against the battalion. That is a fact, is it not?—A. Yes, sir.

Q. Major Blocksom was there and made an examination?—A. Yes, sir.

Q. Do you want this committee to understand that he was unfair in his examination?—A. I have never even insinuated that he was.

Q. No; I do not understand that you did; nor that he assumed that the soldiers were guilty?—A. No, sir; I do not think he did.

Q. No; no assumption of that kind. Do you want the committee to understand that General Garlington was unfair?—A. No, sir.

Q. Or that he assumed that the soldiers were guilty?—A. No, sir. I give them credit for being honest, exactly the same way I was; that whatever evidence there was in existence was against the men.

Q. It was your desire to get hold of the guilty and clear the others?—A. Yes, sir.

Q. To segregate, possibly, some that were guilty?—A. Yes, sir; those who did it; to get the four or five that were guilty and to save the other soldiers who were not guilty.

Q. You had frequent talks with Major Blocksom when he was there?—A. Yes, sir.

Q. And with General Garlington?—No, sir; not with him.

Q. He was in Major Penrose's quarters?—A. Yes, sir.

Q. And he was consulting with him as to what was to be done?—A. Yes, sir.

Q. Freely?—A. Yes, sir.

Q. You were consulting among yourselves as to what was to be done?—A. Consulting among ourselves almost every time we met as to what the men had said.

Q. Was it not true that those officers expressed an anxiety to clear those men, if possible, if they were not guilty?—A. I do not know that they did.

Q. What was the expression? Did they all act from the same motives as yourself?—A. Yes, sir; I think they acted on the best material at hand.

Q. You were asked if there was hostility upon the part of the soldiers toward the citizens of Brownsville?—A. Yes, sir.

Q. You knew of none?—A. No, sir.

Q. Did you know of any hostility on the part of the citizens of Brownsville toward the soldiers?—A. No, sir; I did not.

Q. Is it not a fact that the citizens would come in in the evenings at tattoo?—A. No, sir; not at tattoo, but at retreat.

Q. At retreat?—A. Yes, sir.

Q. You have a flagstaff there?—A. Yes, sir.

Q. And at retreat you salute the colors, do you not?—A. Yes, sir.

Q. It is rather an impressive ceremony, is it not, Lieutenant?—A. Yes, sir; one of the most impressive.

Q. That you have in the Army?—A. Yes, sir.

Q. And the citizens of Brownsville would come in at that time?—A. Yes, sir.

Q. Of course the band would be playing?—A. No, sir.

Q. You did not have any band?—A. We did not have any band with us.

Q. But the color guard would be there?—A. Yes, sir.

Q. And go through the regular drill for retreat?—A. Yes, sir.

Q. And, as you say, that is one of the most impressive ceremonies you have in your regiment?—A. Yes, sir.

Q. And citizens in great numbers would come out there, old and young, would they not—drive out and walk out?—A. Yes, sir.

Q. It is right at the edge of the town. And is it not a fact, too, that the Mexicans—youngsters from 6 and 7 years of age up to 20 years and more—would come up there and go bathing in the lagoon?—A. Yes, sir.

Q. And is it not also a fact that the Mexicans and colored soldiers fraternized together?—A. I could not say anything as to that.

Q. Do you know whether they did or not?—A. No, sir; I could not say. That is the first time I ever was down in that country, and I never had seen a Mexican before.

Q. Now, something was read to you from one of the reports about the character of secretiveness of the colored soldiers. What information or opinion you have as to that has been acquired since you have been serving with them?—A. Yes, sir.

Q. Major Penrose has been in the service some thirty years, has he not?—A. Yes, sir; but he has not been with colored troops as long as I have.

By Senator FORAKER:

Q. He had not been with colored troops?—A. No, sir.

By Senator WARNER:

Q. You did not think that he would be as good a judge as you would be?—A. No, sir; I do not mean to say that for a minute; but I just thought that you thought he had been serving with them longer than he had.

Q. In this report of Major Penrose of September 20, which is in

the record, in the part that has already been read he says, on page 106:

But it must be remembered that the negro race is a very secretive one, and those having knowledge of the shooting, without being participants, will hesitate a long time under most adverse conditions before giving information.

Do you want to differ from that?—A. I do not quite agree with Major Penrose on that. I have got a right to my own opinion on that.

Q. Well, Lieutenant, pardon me, now; nobody is questioning that. We are asking your judgment here.—A. Yes; I understand.

Q. You are not to be governed at all by what Major Penrose or anybody else says. Your sergeant-major was Taliaferro, was he not?—A. Yes, sir.

Q. Do you know the scavenger?—A. Yes, sir.

Q. Tamayo?—A. Yes, sir.

Q. Did he ever make any report to you of what he heard that night?—A. No, sir; he did not.

Q. Did you ever hear him make any report?—A. No, sir; nothing except what I have read.

Q. The first you knew of Tamayo, as to what he said, was what you have read in these proceedings or at the court-martial?—A. Yes, sir; that is the first, except I heard, practically hearsay, what that was at the time of the shooting. I know practically what he did say, but I did not hear him say it.

Senator FORAKER. I have found now, at page 96 of Senate Document 155, what I could not find a while ago, in the report made by A. C. Hamilton, assistant United States attorney, dated September 6, 1906, to the Attorney-General, Hon. William H. Moody. It is as follows:

The governor of Texas has offered a reward of \$500 for evidence leading to the conviction of the guilty ones, but it has produced no evidence thus far.

I just wanted to put that in the record; that is all.

By Senator BULKELEY:

Q. As adjutant of the post were you in the habit of receiving telegrams that came to the military authorities of the post?—A. Yes, sir; very frequently.

Q. Did you ever hear of any possible leaks in the telegraph office, of the disclosure of telegrams before they were delivered to the persons—the military persons—to whom they were directed?—A. Yes, sir; I am almost positive it was done right along after that trouble occurred.

Q. Will you not tell us what you know about that? I notice in a report of Major Penrose what he says.

Senator FORAKER. Excuse me. I did not hear what you said.

Senator BULKELEY. I am asking about a leak in the telegraph office, by which the orders of the military authorities were exposed to the people of Brownsville before they were communicated to the officers of the post.

Senator FORAKER. Yes.

By Senator BULKELEY:

Q. Major Penrose says, in a communication to the military secretary of the southwestern division, found on page 104 of Senate Document No. 155, which is dated September 24, 1906:

Prior to this Maj. A. P. Blocksom, inspector-general, southwestern division, who was at Brownsville making an investigation of the shooting affair, had remarked to me he did not understand how the people of Brownsville obtained information of messages sent him, unless there was a leak in the telegraph office.

Do you know anything about that?—A. Yes, sir; I heard it talked about down there at the time; and I know for a fact that when a telegram was sent out the night before there, that we would leave at midnight, the people in town knew all about it. They crowded up about the telegraph office right after I took the telegram myself.

Q. Then you had reason to believe—you know in one instance you have reason to believe—that there was a leak by which dispatches that were passing between military authorities were disclosed before they reached the military authorities?—A. Yes, sir: there is no doubt whatever in my mind but what it was done right along.

By Senator SCOTT:

Q. I want to ask the lieutenant a question or two before he goes off the stand. Lieutenant, as I understand your testimony, after the shooting up and the finding of these clips and shells I understand that that made an impression upon your mind and upon the minds of the other officers that it had been done by the men of the battalion?—A. Yes, sir; that, with the fact—let me put in there—that all the bullet holes were on houses in town and we could not find any in the barracks, and that ammunition.

Q. After the shooting up, and the discussion and investigation, and your inability to find out from any of the soldiers in the battalion, as I understand you, you have changed your mind, and you do not believe that the shooting was done by any of the members of the three companies?

Senator WARNER. The witness has not said that.

A. No, sir; I do not state that.

Senator SCOTT. Now, I am a layman; just let me go along in my own way. I want to see what he thinks now, or what he thought afterwards.

Senator SCOTT. I want to know what the witness thinks; I want his opinion about it.

The WITNESS. I stated yesterday that my mind was open on the question at the present time, and by that I mean that supposing that within the time between August 13th and November 20th certain men would be accused and tried as being implicated in that Brownsville affray, I would not at that time have felt competent to sit on the court, because I had prejudged the whole case against them, but now I could. I could sit on any court, and hear evidence for and against and make up my mind.

By Senator SCOTT:

Q. Did you, or any of the officers to your knowledge, follow any clue as to whether anybody other than the soldiers might have done that shooting?—A. We had none. They got us right out of Brownsville.

By Senator BULKELEY:

Q. As I understand it, what you mean to say at this time is that you do not fix the shooting up of Brownsville any more on the troops at present on your own mind than you do on anybody else?—A. No, sir; I do not know.

**TESTIMONY OF FIRST SERGT. WILLIAM BLANEY, U. S. ARMY
(COLORED).**

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Please state your name in full.—A. William Blaney.

Q. Are you in the Army now?—A. Yes, sir.

Q. What organization are you a member of?—A. I am the first sergeant of Company B, Twenty-fifth Infantry.

Q. You are in Company B now?—A. Yes, sir.

Q. Were you a member of Company B in August, 1906?—A. Yes; I was.

Q. How long have you been in the Army?—A. I have been in the Army about twelve years.

Q. Have you served with this regiment all of the time?—A. No; I have only served with this regiment three years—about three years and six or eight months.

Q. Were you with this regiment at Fort Brown?—A. No; I belonged to it, but I was not with them there.

Q. Where were you at that time?—A. I was in Kentucky—Grand Bend, Ky.

Q. You were absent from your regiment on a furlough?—A. Yes, sir.

Q. Were you with the regiment at Fort Niobrara?—A. Yes, sir.

Q. Were you with the regiment at the time when the new Springfield rifles were issued to the regiment?—A. Yes, sir.

Q. What position in the company did you hold at that time?—A. I was company quartermaster-sergeant.

Q. You were familiar with the property book of Company B?—A. Yes, sir.

Q. Was a rifle issued to you at that time?—A. Yes, sir.

Q. You yourself were then the quartermaster-sergeant?—A. Yes, sir.

Q. Please look at the book I now hand you and tell me what it is.—A. It is B Company's property book.

Q. Turn to the account of the men with the rifles and tell me what that property book shows as to your own rifle.—A. For the present?

Q. Just tell me what it shows. Not as to the present, but as to the new Springfield rifle which was issued at Fort Niobrara in April, I believe it was, 1906. I want the number of your gun.—A. Yes; this book gives me one rifle, and it is numbered.

Q. What number?—A. 45683.

Q. Is that rifle receipted for by you?—A. Yes, sir.

Q. Was it issued to you as indicated there?—A. Yes; it was.

Q. Is that the rifle, now that you see the number, that you had while you were at Fort Niobrara?—A. Yes, sir.

Q. What time did you leave the company at Fort Niobrara to go on your furlough?—A. On the 8th of June.

Q. You left some time before the battalion went to Fort Brown?—A. Yes, sir.

Q. Did you keep that rifle in your possession until that time?—A. Yes, sir; I did.

Q. Did you or not use that rifle at Fort Niobrara on target range in target firing?—A. Yes; I used it on the 8th day of June—on the very day that I left.

Q. On the day that you left what did you do with your gun?—A. I took it in the storeroom after I got through firing and kept it in there.

Q. Who succeeded you as quartermaster-sergeant?—A. Walker McCurdy.

Q. Was he the quartermaster-sergeant and did you turn the gun over to him that night, or what did you do with it?—A. No; I took it in the storeroom myself. I had the keys, and I did not turn the keys over to him until that evening. I fired that morning, but I think it was in the evening when I turned the keys over to him.

Q. When did you next see that rifle? Did you call his attention to your own rifle or not before you left there as being turned into the storeroom?—A. Yes, sir.

Q. State whether or not your rifle was marked in any way, if you know, besides the number on it.—A. No, sir.

Q. I only want your recollection.—A. No; not as I know of.

Q. You turned it over to Sergeant McCurdy, or I mean you left it in the storeroom and McCurdy succeeded you as quartermaster-sergeant?—A. Yes, sir.

Q. And he came at once into possession of it?—A. Yes, sir.

Q. When did you next see your rifle?—A. At Fort Reno.

Q. You did not return to your company until it arrived at Fort Reno?—A. No.

Q. And you were not discharged without honor?—A. No, sir.

Q. You are still in the Army?—A. Yes, sir.

Q. Under what circumstances did you see your rifle when you arrived at Fort Reno? Did you get it again?—A. Yes; I got the same rifle I had at Fort Niobrara. I found it with my name in the magazine and I just took it; the same number.

Q. And your name was on the magazine?—A. My name was on a piece of paper in the magazine.

Q. Did you recognize it as your rifle?—A. Yes, sir.

Q. The same rifle?—A. Yes, sir.

Q. And you know it was the same rifle that you had before you left?—A. Yes.

Q. Where did you find it?—A. In the arms chest.

Q. Do you know who put the name in the chamber?—A. Yes; I think it was McCurdy.

Q. At any rate, your name was in the chamber of this identical rifle with your number, was it?—A. Yes, sir.

Q. Now, state whether or not while you were at Fort Reno after you returned you used that rifle in firing in target practice or in competitive practice.—A. Yes; I did. I used it sometime in October in competition.

Q. You had competitive target firing at Fort Reno, and you engaged in that?—A. Yes, sir.

Q. With other members of your company?—A. Yes, sir.

Q. And you used this identical rifle?—A. Yes, sir.

Q. Then later you turned that rifle in again?—A. Yes, sir.

Q. To whom did you turn that rifle in?—A. To Captain Kinney, of the Twenty-fifth Infantry.

Q. Are there any check marks over the number of that gun there in that company property book to indicate that he received it?—A. Yes, sir.

Q. What are they?—A. Why, it is checked "C. C. K."

Q. This is the last time you turned it in at Fort Reno, when you turned that in?—A. Yes, sir.

Q. Captain Kinney was not with the company at Fort Niobrara?—A. No, sir. This is the last time I turned this rifle in.

Q. When you turned that in at Fort Reno, it was to get another Springfield rifle with another kind of a bayonet, was it not?—A. Yes, sir.

Q. That is all.

By Senator WARNER:

Q. You handed that rifle in to the storeroom—that is, in to yourself—formally in the morning?—A. Yes, sir.

Q. And in the evening you turned the keys over to Sergeant McCurdy?—A. Yes, sir.

Q. And that is all you know about it at that time?—A. Yes, sir.

Q. What was done with the rifle you don't know of your own knowledge?—A. No, sir; after I come in. Of course I shot it that day, and I cleaned it and took it in the storeroom, and I always kept my own rifle in the storeroom.

Q. Why did you clean it?—A. Because I just fired it; I made my last round with it.

Q. That is required before it shall be turned in, that it shall be cleaned?—A. Yes, sir.

Q. You knew that? You had been quartermaster-sergeant for some time?—A. Yes, sir.

Q. That is the practice that has to be followed?—A. Yes, sir.

Q. You say your name was in the magazine of the rifle?—A. Yes; on a slip of paper in the magazine.

Q. Just state to us what you mean by the magazine.—A. Why the magazine is—

Q. There is a gun right behind you there. Just show us.—A. (Referring to gun.) This is a magazine, and the piece of paper was stuck right in there.

Q. The magazine is where you put the clip in?—A. Yes, sir.

Q. And, of course, under the bolt?—A. Yes, sir.

Q. And this piece of paper was in the magazine?—A. Yes.

Q. It was not in the barrel?—A. No, sir.

Q. You are quite clear about that?—A. Yes, sir.

Q. What did it say on that piece of paper?—A. It just had my name on it—William Blaney.

Q. How did that piece of paper come to get in there?—A. I don't know, sir.

Q. You don't know anything about it?—A. I judged the quartermaster-sergeant put it in there. That is the way he had to mark it.

Q. You know nothing about it only that?—A. No, sir.

By Senator FORAKER:

Q. It appears from the report that has been put in evidence here that that gun, after you turned it in at Fort Reno, was sent to the Springfield Arsenal and there examined by some experts, and they report that they found it having a foul bore; that it had been fired and not cleaned. You said to Senator Warner, when he asked you about it, that you were required always to clean it before you turned it in. That would seem to indicate that you did not clean it when you turned it in the last time. Can you explain why it was found dirty at the Springfield Arsenal?

Senator WARNER. My remembrance is that he stated he had cleaned it when he turned it in.

Senator FORAKER. He said he cleaned it when he turned it in, certainly the first time at Fort Niobrara.

A. Yes, sir.

Q. Did you clean it at Fort Reno, before you turned it in?—A. Yes, sir.

Q. Then, before you turned it in at Fort Reno you cleaned it?—

A. Yes, sir.

Q. Both times?—A. Yes, sir.

Q. And still it was dirty, after it got to the Springfield Arsenal. Do you know how it could have become a foul bore after you turned it in at Fort Reno? Did anyone else fire it?—A. No, sir.

Q. Then it could not have been cleaned by you if it was not fired in the meantime, and it was found not clean when it arrived there. We want some explanation of that, if you can give any; and if not, all right.—A. It was in October I took part in the competitive firing, and after I finished I cleaned my gun, and when we got ready to turn them in to Captain Kinney I oiled it—just put some oil on it. That is all we were required to do, just put some oil on it.

Q. Did you put oil on it when you turned it in at Fort Niobrara?—

A. Yes, sir.

Q. The same way—that is all that is required?—A. Yes, sir.

Q. At any rate you had fired it at Fort Reno, and if it got fired afterwards by somebody else you have no knowledge about that?—

A. No; I have not.

By Senator SCOTT:

Q. Where did you enlist?—A. In Fort Niobrara, Nebr.

Q. I mean your first enlistment?—A. Pittsburg, Pa. That is about twelve years ago.

Q. How long have you been in the Army?—A. About twelve years.

By Senator FORAKER:

Q. What State were you born in?—A. Virginia.

Senator WARNER. Nobody shot this rifle after you turned it in at Fort Reno?

A. No, sir.

Senator BULKELEY. What did you do toward the cleaning of your gun—anything more than to put some oil in it? What did you do? How much of a cleaning process did you go through?—A. Why, I had taken the rod and put oil down in the barrel—put some oil on a rag, oil we used for cleaning a gun, and run it down in the barrel, and then put cosmic oil on the barrel.

Q. That is all you did?—A. Yes, sir.

Q. Will that completely clean the gun so that it will pass an ordinary inspection, for your Saturday inspection by your officer?—A. We would not put any oil on it if we were going to have an inspection. I oiled this because the gun was to be shipped back to the arsenal. That is the way we get them, and that is the way we send them back, to keep them from rusting.

Q. So that it was not a cleaning process?—A. This oiling? It was already clean. I generally kept it clean all the time, sir.

By Senator FORAKER:

Q. Was there competitive target firing in September as well as in October? You speak of being engaged in October.—A. Why, I think there was. I don't know. I was only on one competitive target firing, and I think it was in October.

Q. Other men in your company participated in it in September?—A. Yes, sir.

Q. You participated in the competitive firing in October?—A. Yes, sir.

Q. And some of the men in September?—A. Yes, sir.

By Senator WARNER:

Q. As I understand it, you cleaned your gun first and removed all signs of powder?—A. Yes, sir.

Q. And then when you got ready to ship it you oiled it so as to prevent it from rusting?—A. Yes, sir.

Q. That is correct, is it not?—A. Yes, sir.

Q. That is all.

TESTIMONY OF CAPT. CLIFTON C KINNEY.

Capt. CLIFTON C. KINNEY, being first duly sworn by the chairman, testified as follows:

Examined by Senator FORAKER:

Q. You are a commissioned officer of the Twenty-fifth U. S. Infantry?—A. Yes, sir.

Q. Of what rank?—A. Captain.

Q. What company?—A. Company B, Twenty-fifth.

Q. How long have you been in command of Company B of the Twenty-fifth Infantry?—A. Since the 9th of October until I went on leave about two weeks ago.

Q. 1906?—A. Yes, sir.

Q. You were not with the battalion or company at Fort Brown, Tex.?—A. No, sir.

Q. What book is that in front of you?—A. The property book of Company B, Twenty-fifth Infantry.

Q. Are you familiar with that book?—A. Yes, sir.

Q. I wish you would look at the account kept in it as to the men and their rifles, and with particular reference as to the rifle assigned to Sergeant Blaney, and tell me what it indicates as you find it there.—A. The book indicates that rifle No. 45683 was issued to Sergeant Blaney, and was turned in by him at Fort Reno when the arms were taken away from the men.

Q. Those are your initials there?—A. Yes, sir.

Q. They are written across the number?—A. Yes, sir.

Q. What would that indicate—that you received from him that rifle?—A. Yes, sir.

Q. Did you take any steps at the time by comparison or otherwise to ascertain whether it was that identical rifle that he turned in to you?—A. No: no other steps than to verify the number on it.

Q. You verified the number?—A. Yes, sir.

Q. And you know from that record that he turned that rifle in to you at that time?—A. Yes, sir.

Q. You don't know anything about what happened at Fort Brown?—A. Nothing at all.

Q. You were not with the battalion at Fort Niobrara?—A. No, sir.

Senator WARNER. This was at Fort Reno where it was turned in to you?

A. Yes, sir.

Senator FORAKER. When that was turned in, it was to have a new kind of gun or a gun of the same kind with a new bayonet. That was the purpose of that?

A. Yes, sir.

Q. That is all.

The witness, Captain KINNEY, was later recalled and questioned by Senator LODGE, as follows:

Q. I would like to ask you whether you inspected these rifles that were turned in to you at Fort Reno and afterwards returned to the Springfield Arsenal, after they were turned in?—A. No, sir; except to see cosmoline oil had been put on them before packing them away in the arm chest.

Q. Did you look through the barrels to see whether they were foul?—A. No, sir.

Q. That is all.

TESTIMONY OF ISAIAH RAYNOR (COLORED).

ISAIAH RAYNOR (colored), after being sworn by the chairman, testified as follows:

By Senator FORAKER:

Q. Were you a member of the Twenty-fifth Infantry in August last while it was at Fort Brown, or while a battalion of it was at Fort Brown?—A. Yes, sir.

Q. What company did you belong to?—A. B Company.

Q. Can you tell us what gun you had at that time?—A. I had Samuel Hopkins's gun.

Q. First we have a book here. I want to find out what gun was issued to you at Fort Niobrara. Do you remember when you got your new guns?—A. Yes, sir.

Q. Were you with the company at Fort Niobrara?—A. Yes, sir.

Q. I want to call your attention to what this property book shows. There is your name—Isaiah Raynor.—A. Yes, sir.

Q. And opposite that, as the number of the rifle issued to you, is the following: 41390?—A. Yes, sir.

Q. Was that the gun—can you remember now that I call your attention to the number—was that the gun that was assigned to you?—A. Yes, sir.

Q. I do not see any receipt by you opposite that gun. You got it, however, did you?—A. Yes; I had that gun.

Q. Did you use that gun on the target range at Fort Niobrara?—A. Yes, sir.

Q. Did you carry that gun with you to Fort Brown?—A. Yes, sir.

Q. Were you with your company the night of the shooting affray?—A. Yes, sir.

Q. Do you know what gun you had that night?—A. Yes; I know what gun I had that night.

Q. Whose gun did you have that night?—A. Samuel Hopkins's gun.

Q. Did you fall in with your company that night when the firing commenced?—A. Yes, sir.

Q. Where were you when the firing commenced?—A. I was cook in Company B at that time.

Q. Well, but where were you? Were you cooking at 12 o'clock at night, when the firing commenced?—A. No; I was in bed, asleep, in the room next to the kitchen.

Q. What did you do when the order of call to arms was heard, if you heard it, or when you heard the firing, I will say?—A. Aleck Walker woke me up that night. He was the first cook.

Q. Well, Samuel B. Hopkins seems to have had gun No. 41183. He was discharged. What did you do when you got awake?—A. When Walker woke me up he said the call to arms was given, and I said I guess there is no call to arms given; I said I guessed it was the fire call, and he said no. I got up, and I heard the trumpet blowing, and I heard shooting, and I got up and half dressed, and I got up and run down through the dining room, and the front dining-room door was locked, and so he and I jumped through the front window, and we went upstairs; and when we got upstairs Sergeant Allison was standing about the third section at the right, which is the rack before you get to the fourth section. My gun was in the fourth section, and I said, "Sergeant, give me my gun," and he said, "Go and get a gun out of this rack, because the fourth section is not open." So I grabbed a gun with a cover on it, and I ran downstairs, and before I got to the end of the steps I took this cover off the gun. The cover is something like a cover to keep it from rusting—to keep dust from getting on it. And so I carried it, and I ran downstairs and I fell in line, and when I got there I did not have no belt or hat, and at that time the first sergeant came up, and who was in charge of the company at that time I don't know. I think it was Corporal Daniel or some other corporal.

Q. Were you with your company all that night? Did you keep while you were out with your company the same gun that you got out of the rack?—A. Yes, sir.

Q. Did you know whose gun it was that night?—A. I did not know whose gun it was until the man asked about the gun.

Q. When did he ask you about the gun?—A. Why, we had been out on the skirmish line, and they ordered the company to fall in, and it seems that all of us were standing downstairs—I guess it may have been ten minutes—and Hopkins says, "Who got a gun out of the third section with a cover on it?" And I said, "I got it;" and I am not sure, but I think he looked at it, and he said, "This is my gun;" and soon afterwards we put the guns in the racks.

Q. Did you give him his gun with the cover on it at the time he asked you about it?—A. No; he had somebody else's gun.

Q. Did you exchange it for the gun he had, or did you keep his gun?—A. Do you mean that night?

Q. Yes.—A. No; I kept his gun that night.

Q. Were you with the company when it went back to quarters?—A. Yes, sir.

Q. And was dismissed for the night?—A. Yes, sir.

Q. What did you do with his gun?—A. Put it in the third section rack.

Q. Do you know who had your gun?—A. No; I do not.

Q. Where did you next see your gun?—A. I did not see it the next morning before they hollered for everybody downstairs with their rifles and they fell into line.

Q. That was when the drill call sounded?—A. Yes, sir.

Q. Did you fall in?—A. Yes, sir.

Q. With your own gun?—A. Yes, sir.

Q. Where did you find it?—A. In the gun rack.

Q. State whether or not you were present with the company when the company's guns were inspected.—A. Yes; I was present when the guns were inspected.

Q. Who inspected your gun?—A. Captain Lyon.

Q. You had your own gun in your hands at that time?—A. Yes; at that time.

Q. Who inspected the company first?—A. Lieutenant Lawrason.

Q. State whether or not he set anybody to one side for reinspection.—A. Yes; Lieutenant Lawrason was on the right of the company and inspected it up to the left, and I was standing in the rear ranks, so when he came back down and inspected the rear rank he set several men to one side.

Q. State whether or not you were one of them.—A. Yes; I was one of the men he had step back.

Q. How many were asked to fall back?—A. I guess about seven or eight.

Q. Can you give us the names of the others?—A. No; I really do not know. I know two of them—one I am sure of.

Q. Who was that?—A. I know one man by the name of, I think it is Mitchell.

Q. George W. Mitchell?—A. Yes, sir.

Q. He was one of the men?—A. Yes, sir.

Q. Lieutenant Lawrason inspected you and set you aside with the seven or eight out of the number?—A. Yes, sir.

Q. And then who inspected you afterwards, if anybody?—A. Major Penrose told Captain Lyon to inspect the rifles.

Q. Where was your company at that time?—A. They had marched around to the rear.

Q. Did Captain Lyon inspect your gun, as well as all these guns?—

A. Yes; inspected them one at a time.

Q. He inspected your gun?—A. Yes.

Q. What kind of an inspection was that?—A. I think he told Sergeant McCurdy, or some sergeant, to go upstairs and get some clean rags, and he went upstairs and he got an armful of rags and came down and had some one, I forgot who it was, run the rags through the rifles. I guess they run four or five rags through the rifles. He did not run the same rag through twice—only one rag through, and put that aside, and Major Penrose took the rag and smelled of the rag that he got out of the rifle.

Q. He smelled the rag as well as examined it with his eyes?—A. Yes, sir.

Q. What was the result? Did he find anything the matter with your gun or not?—A. No; he did not find anything the matter with it at all.

Q. And he handed it back to you?—A. Yes, sir.

Q. Then what did you do?—A. He told me to fall in with the company.

Q. Did you go there then and join the company?—A. No; I was the cook, and I got excused to go into the cook kitchen and prepare the dinner.

Q. You seem to have bad eyesight. I do not refer to that in any offensive way, but only that I may ask a question about it. Have you had eyesight so that you have to wear glasses?—A. Yes; in one of my eyes I can not see out of at all.

Q. Was there anything the matter with your eyes at that time?—

A. Yes; it was not quite as bad then as it is now, but it was awful bad then.

Q. Did you have any trouble with anybody while you were at Brownsville?—A. No; I did not have any trouble with anybody.

Q. Were you downtown any?—A. Yes; I remember going downtown twice.

Q. Did anybody insult you or give you any offense of any nature?—A. No, sir.

Q. Did you have anything to do with shooting up the town?—A. No; I did not.

Q. Do you know of anybody who did have, belonging to your company?—A. No; I did not.

Q. Have you any knowledge that would lead you to suspect anybody?—A. No; I have no knowledge at all.

Q. Or in any other company?—A. No, sir.

Q. Where are you staying now?—A. 1922 Cumberland street, Omaha, Nebr.

Q. What are you doing there?—A. Working in the Grand Hotel, porter in the barber shop.

Q. Did anybody ever accuse you of being guilty of shooting up the town?—A. No.

Senator FORAKER. I will state to the committee that the reason I called this witness is that there is some confusion in the report of

the experts. At one place they mention this gun as the one that the group 4 of shells have been identified as belonging to. I do not want to ask the witness about anything else. (To the witness.) Have you told us all that you know about the firing or about your gun that night?

A. Yes, sir.

Senator FORAKER. I will ask to have inserted at this point in the record the record of Isaiah Raynor, the witness, as found on page 253 of Senate Document No. 155.

The record is as follows:

ISAIAH RAYNOR.

Enlisted September 16, 1899; was discharged as a private of Company B, Forty-eighth United States Volunteer Infantry, June 30, 1901, by reason of muster out of company; character excellent.

Reenlisted August 7, 1901; was discharged as a private of Company B, Twenty-fifth Infantry, August 6, 1904, on expiration of term of enlistment; character very good.

Reenlisted August 12, 1904; was discharged without honor as a private of Company B, Twenty-fifth Infantry, November 19, 1906.

By Senator WARNER:

Q. You had no trouble at Brownsville?—A. No, sir.

Q. How long have you been in the Army?—A. I have been in the Army a little over seven years. I was in the Forty-eighth Infantry one year and nine months and fifteen days. I was in B Company three years, and I was discharged from B Company and reenlisted, and would have been discharged the coming August.

Q. Did you ever have much trouble since you have been in the Army?—A. Never was court-martialed. You can not find a black mark on my record.

Q. Were you wounded when you were at Niobrara; were you hurt or shot?—A. No, sir.

Q. How long were you at Fort Niobrara?—A. I guess I was there about four years. I was there when we first went there from the Philippines.

Q. What company did you belong to?—A. Company B all the time.

Q. Always with Company B?—A. Yes, sir.

Q. I read from Senate Document No. 155 at page 361. There was no other Isaiah Raynor in the company besides you?—A. No, sir.

Q. Nor in the battalion or regiment, as far as you knew?—A. No, sir.

Q. I read:

The hospital records of the post show that Private Isalah Raynor, Company B, Twenty-fifth Infantry, was admitted October 30, 1904, with a contused and lacerated wound received in a brawl at a house of ill-fame near Fort Niobrara, Nebr., October 29, 1904.

Is that correct?—A. I don't understand you.

Q. Did you get hurt up there in a house of ill-fame at that time?—A. Yes; I remember getting hurt once.

Q. That was the case? Somebody was killed there at that time, was there not?—A. Yes, sir.

Q. Who was it that was killed?—A. I heard some woman got killed, I think, and a horse got killed, as far as I can remember.

Q. And it was charged that soldiers had done that shooting, was it not?—A. Soldiers?

Q. Yes.—A. No; I never heard it charged that soldiers did the shooting.

Q. How did you come to be hurt?—A. Well, how I came to be hurt, we had been on a hunting trip.

Q. Who?—A. Me and several more; ten men goes on a hunting trip.

Q. In a wagon?—A. Yes, sir.

Q. Went out in a wagon?—A. Yes; and we had been gone ten days and we got in before our pass was up, and Sergeant Sanders said that we could go out and report back the next morning for duty.

Q. What Sergeant Sanders—Mingo Sanders?—A. Yes; so we goes out for a good time, and we stopped by this ranch, and they were gambling there. Three or four of us were standing around there looking at them gambling. Of course, we did not have any money and we were standing looking at the others, and on the outside I heard a shot fired, and everybody seemed like they were amazed, and did not know what to think of it, and everybody thought it was nothing at all; but after awhile we heard some more shots fired, and a shot came through the door and went through some fellow's trunk, and the bullet hit the stove and the stove bursted, and a piece of the stove hit me on the neck and some on the face and some hit me on top of my eyelid, right up here.

Q. It struck you all around?—A. Yes; from off the stove, and it hit three or four men; hit the proprietor around there—some of the stove hit him when it bursted.

Q. How many of you were in there then?—A. Oh, there were several soldiers in there.

Q. How far was that from Fort Niobrara?—A. I guess about 2 miles and a half.

Q. It was in the town of Valentine?—A. Between the town and the post.

Q. There were a good many Indians there?—A. I did not see any Indians there. I heard somebody say some Indians were out there in the buggy.

Q. You heard the shooting this night of August 13?—A. Yes, sir.

Q. You were then sleeping where?—A. In the room next to the kitchen.

Q. Downstairs?—A. Yes, sir.

Q. And you were not up?—A. No, sir.

Q. Who else slept in there?—A. Aleck Walker. He was the man that woke me up.

Q. Where was your gun?—A. My gun was in the fourth section rack.

Q. Were you the first or the second cook?—A. The second cook.

Q. And Day was the first cook?—A. This was Company B. Aleck Walker was the first cook.

Q. Where did he keep his gun?—A. Also in the fourth section rack.

Q. Did you see him that night?—A. Walker?

Q. Yes.—A. Yes; I was compelled to see him, he woke me up.

Q. It might have been dark, and you could not see him?—A. Dark where—in the room I am sleeping in—the room I am speaking about?

Q. Was it dark in the room?—A. No; we kept a light burning all night in our room.

Q. You had the light burning all night in the barracks?—A. Yes. The cooks generally kept a light burning all night.

Q. Your room was downstairs in barracks B?—A. Yes, sir.

Q. Was your bedroom at the end of the barracks or the side of the barracks or where?—A. Yes; just like the kitchen was facing B Company's quarters; right there.

Q. For instance [referring to the map], this is said to be B barracks here. You see it, don't you?—A. Yes, sir.

Q. This is Elizabeth street and the main gate?—A. Yes, sir.

Q. Now, what I want to ask you is, where was the kitchen, with reference to the gate? Was it at the end of the barracks, near the gate?—A. At the end of the barracks?

Q. Yes.—A. In the B Company barracks?

Q. That is where you were sleeping?—A. No; it was a long ways from the gate.

Q. Was it at the other end of the barracks? We call that east, up away from the gate.—A. I don't guess how I could explain it to you unless I get up.

Q. Well, get up and explain it.—A. Where is the B Company's barracks?

Q. I will explain the map to you.

(Senator Warner explained the map to the witness.)

Q. Where were you sleeping in B barracks?—A. Downstairs, in the room next to the kitchen.

Q. Whereabouts downstairs?—A. The kitchen faced the street, going out of the barracks down to the gate.

Q. Oh, it is down next to the gate?—A. No; it is not next to the gate.

Q. It is the end next to the gate?—A. No; it is up at this end.

Q. Which end?—A. You pass the front of Company B going out, I guess, the street—I don't know one street from another.

Q. That seems very plain, but I don't understand it.—A. I will put it into your head in some way or other.

Q. You were in B barracks?—A. Yes, sir.

Q. And you were downstairs?—A. Yes, sir.

Q. All I am trying to get at—don't be confused about it.—A. No, sir.

Q. Is simply in which end of the barracks the kitchen was. Was in it the end toward the gate or up here toward C barracks?—A. The kitchen was on the rear end of the barracks.

Q. I understand that that is on the side of the barracks toward the wall. That is what you mean by the rear end?—A. I guess I can explain it to you in this way. I guess you know about D Company's barracks?

Q. Yes.—A. You know where D Company's quarters are and you know where the first sergeant's room is?

Q. Yes.—A. Well, the kitchen is right on this side of the street.

Q. Certainly.—A. That is where the kitchen is.

Q. You see that red cross there? That is the end of B barracks down toward the Rio Grande?—A. That is B barracks right here.

Q. Yes. This is the rear part. This is the front part of the parade ground.—A. And this is the wall part.

Q. The wall runs along here back of the barracks, and here is the road outside of the wall.—A. Well, this must be the kitchen; the kitchen part would be about here.

Q. That is what I thought; down toward the gate; next to the gate.

Senator SCOTT. Where you went out in town. Here is the gate that goes out in town and you certainly know whether it was this end or that end.

Q. All in the world I want is to get about the location of the kitchen. The kitchen, as I understand, was at that end of the barracks?—A. Yes, sir.

Q. And now, the room that you were sleeping in, was that the room on the back part toward the wall?—A. Yes, sir.

Q. That, on the corner there?—A. Yes; right by the front porch.

Q. That is where you were sleeping?—A. Yes, sir.

Q. You were sleeping in there and you heard the shooting?—A. I heard it after Walker woke me up.

Q. You did not hear it before that?—A. No, sir.

Q. Where was the shooting that you heard?—A. It seemed to be back in that part of the town.

Q. Back of B barracks?—A. Back in that part of the town from B Company's barracks.

Q. How far away from B Company's barracks would you say?—

A. I could not tell that.

Q. Half a mile?—A. I don't know.

Q. Did it seem to be out there in that road?—A. It seemed to be in that back part of the town, in the rear of B Company, going down the street; I could not tell how far it was.

Q. You don't know anything about that?—A. No, sir.

Q. You know nothing about the shooting at all?—A. No; I don't know nothing about it at all, only I heard the shooting.

By Senator FORAKER:

Q. Were any charges filed against you on account of that trouble at Fort Niobrara where you got hurt?—A. No; because I was not in any trouble. There was no charge.

Q. You were simply standing there near the stove?—A. Yes, sir.

(At 2 o'clock p. m. the committee adjourned until 11 o'clock a. m. Monday, April 1, 1907.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Monday, April 1, 1907.

The committee met, pursuant to adjournment, at 11 o'clock a. m.
Present: Senators Scott (acting chairman), Foraker, Hemenway,
Warner, Pettus, and Overman.

TESTIMONY OF GEORGE W. M'MURRAY (COLORED)—Recalled.

(The witness was reminded that he was still under oath.)

By Senator FORAKER:

Q. I have recalled Sergeant McMurray, quartermaster-sergeant of Company C, simply as to the numbers of some guns. A report has been made to this committee, or placed before this committee, at any rate, by Lieutenant Hawkins and Inspector Spooner, who, as experts, examined the rifles in the hands of your battalion on the night of August 13, 1906, at Fort Brown, which shows that three of the guns belonging to your company were unissued. You have before you there, as I understand it, the property book of Company C. Will you look at it and tell me whether it is the property book that you had at that time?

Senator WARNER. I will say right there that the report was made that the guns were issued, but not issued upon the report made by Major Penrose.

Senator FORAKER. I understand. I want to point out how Major Penrose might have reported these guns unissued at that time, when, as a matter of fact, they were issued at that time. I do not think there will be any difference about it, but it is one of those matters that it is necessary to explain.

Q. (Continuing.) In speaking of this report as to these rifles, I refer to what appears on page 1316 of our record. It appears there that rifle No. 55157 was unissued. I will ask you to take the property book and see if you can find that number on it, and if so, call our attention to it. The report says, in respect to that rifle:

Hand guard splintered and rear sight leaf broken from base, as with a dull ax or hatchet.

In searching for the record of that rifle, I will ask you to look at what appears on that book following the name of Edward Lee.—A. (After examining book.) Edward Lee turned in, by orders of Captain Macklin, his rifle because it had been hacked up.

Q. Turned it in when?—A. He turned it in either at Brownsville or shortly after we left Brownsville.

Q. After the firing? That is all we care for.—A. Yes, sir; it was some time after that. Edward Lee had No. 55157, and I taken that in and issued him No. 47906.

Q. That appears right here on this book, does it?—A. Yes, sir.

Q. That is to say, Sergeant, in order that I may get it in the record, it appears that 55157 is erased?—A. Yes, sir; I erased that.

Q. And No. 47906 is put above it?—A. Yes, sir.

Q. Are those figures yours?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. Is that erasure yours?—A. Yes, sir; I made all these figures.

Q. Was that made at the time you issued this rifle?—A. Yes, sir.

Q. How did you happen to have No. 47906 in the storeroom, if you can tell me?—A. It would be hard for me to remember these numbers on these rifles, but if a man was discharged to-day, and I had to issue another rifle to somebody else to-morrow, I generally gave that rifle out that this man turned in the day before, because it was already clean.

Q. I will ask you to look at the record of Owen Jackson on that book and see what rifle he is charged with.—A. He had No. 47906.

Q. That is the very gun that you issued to Edward Lee when you took his in?—A. It appears to be the same number. I do not know what I did at that time.

Q. But I am speaking about the record. It is the same number?—A. Yes, sir; it is the same number.

Q. Now, I will ask you how you came to have Owen Jackson's gun so that you could issue it?—A. Because he was discharged.

Q. It appears here that he was discharged?—A. Yes, sir; that is my writing here; he was discharged.

Q. Now, there is nothing on this book here to indicate the exact date when this transfer of guns took place?—A. No, sir.

Q. That was not usual, to put the date on?—A. No, sir.

Q. In fact, it does not appear anywhere in the book—the date?—A. No, sir. All I tried to do was to keep up with the numbers of rifles and to know that we had the number.

Q. But you remember distinctly that Captain Macklin took in some of those damaged guns and issued others in place of them?—A. Yes, sir. Some of them were damaged so that they could not do duty with them, and he told me to take them in and issue others to the men, and it was always my theory to issue a man a gun that another man had turned in.

By Senator SCOTT:

Q. In place of getting a new gun out of the arm chest?—A. Yes, sir; because they were all full of grease, and I wanted to have them stay full of grease.

By Senator FORAKER:

Q. Look at No. 49026, which is mentioned by this report as hacked up and damaged and unissued. I call your attention to the name of George W. Harris in that connection. Turn to that and see what you find opposite his name, if anything, in regard to rifle No. 49026.—A. (After examination of book.) George W. Harris had 49026, and I issued him—

Q. 51951, is it not?—A. Yes, sir; but that was, as well as I can remember—I can remember, sir, pretty near; I can come pretty near telling some of the men, and I think John Lewis had that at one time.

Q. I will ask you about that later. Let me ask you about 49026. 49026 was issued first, according to this book, to George W. Harris, was it not?—A. Yes, sir.

Q. That number is on the same line as his name?—A. Yes, sir.

Q. That appears erased, does it not?—A. Yes, sir.

Q. And then the figures 51951 are written over in pencil?—A. Yes, sir.

Q. Are those numbers written by you?—A. Yes, sir.

Q. That indicates, I understand you to testify, that you took in No. 49026 and gave him 51951 in place of it?—A. Yes, sir.

Q. And that was on what account?—A. The gun was injured in some way. I don't remember how it was injured, but it must have been injured.

Q. This was when? When was this done, if you can tell us? I do not mean exactly.—A. I think it must have been did at Brownsville.

Q. After the firing is what I want to know. Was it after the firing?—A. I think I issued this rifle after we got to Reno.

Q. After you got to Reno?—A. Yes, sir; that is my memory about it.

Q. Yes. Now, No. 51951 you say you think was at one time issued to somebody else?—A. John W. Lewis, I think, sir.

Q. Turn to his name and see.—A. (Examining book.) I think you will find that same number at John W. Lewis's name, if I am not mistaken.

Q. Here is John W. Lewis. The number of that gun is 59151, of his rifle?—A. Yes, sir; that is it.

Q. What became of John W. Lewis, and how did you happen to have his rifle?—A. He was discharged at Brownsville.

Q. He was discharged at Brownsville?—A. Yes, sir.

Q. And when he was discharged you took in his rifle?—A. Yes, sir.

Q. You would not take his rifle in before he was discharged, would you?—A. No, sir; I could not.

Q. So that if you issued that rifle to somebody else, you did it after he was discharged?—A. Yes, sir.

Q. In Senate Document No. 155 it appears, at page 276, that John W. Lewis was discharged on expiration of term of enlistment, August 24, 1906.—A. Yes, sir.

Q. He had his gun up until that time, did he?—A. He had his gun until he left the company.

Q. You remember when he left he turned the gun in to you?—A. Yes, sir.

Q. And then it was you issued it to this other man?—A. Yes, sir.

Q. So that that was after the firing?—A. Yes, sir.

SENATOR FORAKER. I put in evidence at this place the record of John W. Lewis, as it appears at page 276 of Senate Document No. 155, this being the official record furnished by the War Department. It appears from this record that John W. Lewis reenlisted September 6, 1906, in the Tenth Cavalry, and was discharged without honor from that regiment under this same general order, November 16, 1906.

The record referred to is as follows:

TROOP H. TENTH CAVALRY.

JOHN W. LEWIS.

Enlisted August 22, 1900; was discharged as a private of Company O, Twenty-fifth Infantry, August 21, 1903, on expiration of term of enlistment; character good.

Reenlisted August 25, 1903; was discharged as a private of Company O, Twenty-fifth Infantry, August 24, 1906, on expiration of term of enlistment; character very good.

Reenlisted September 6, 1906; was discharged without honor as a private of Troop H, Tenth Cavalry, November 16, 1906.

Senator FORAKER. At page 176 of Senate Document No. 155 it also appears that Private John W. Lewis was discharged after he had reenlisted in the Tenth Cavalry. I call attention to that merely so that we may refer to it. The other is the official record.

By Senator FORAKER:

Q. So that, as I understand you, both of these guns that were turned in in the way mentioned, namely, the gun No. 55157 in the hands of Edward Lee and No. 49026 issued to George W. Harris, were in the hands of these men on the night of this firing?—A. Yes, sir; in the barracks.

Q. But not in the storeroom?—A. No, sir.

Q. And they got into the storeroom because their guns were injured, and they were issued guns that had been turned in by discharged men?—A. Yes, sir.

Q. And the original figures were all erased, as appears from your book?—A. Yes, sir.

Senator FORAKER. The evidence shows that Edward Lee had rifle No. 55157, and that he turned it in to the quartermaster-sergeant and had issued to him instead of it rifle No. 47096, which had been originally issued to Owen Jackson, who was discharged at Fort Niobrara.

Rifle No. 49026 was in the hands of George Harris August 13. It was returned to the quartermaster-sergeant because injured in the gun rack on the night of August 13, and rifle No. 51951 was issued to him in lieu of it, which rifle (51951) had been in the hands of John W. Lewis, who was discharged, as shown at pages 176 and 276 of Senate Document No. 155.

By Senator FORAKER:

Q. There is one other gun mentioned as unissued, that was damaged, that is No. 47661. On page 1316 of our record, in the right-hand column, there is this report as to that gun:

New; extractor broken at claw.

Can you tell anything about that gun?—A. Had been issued? Senator WARNER. That is John Young.

By Senator FORAKER:

Q. No; it had never been issued, so this report says. You might see whether that report is so. Examine the book.—A. Well, not only in the first battalion, but I believe in the third battalion, there—take Captain O'Neil's company—there was one-half the guns that they couldn't use at all when they opened them, because there was something out of order about them when they first came in or when they were first issued, at Niobrara.

Q. Look and see whether No. 47661 was ever issued or not, or was ever issued, so far as the record of your company shows. A. (After examination of book.) John Young's rifle was No. 53929.

Q. Whose rifle?—A. John Young's. That is the rifle that was issued to him.

Q. I am not asking you about him. I did not ask you anything about him. I want to know whether this book shows that No. 47661 *was ever issued*.

Senator SCOTT. Whether he ever had such a gun?

Senator FORAKER. No; he had it. I want to know whether he issued it. [After examination, with the witness, of each page of the property book.] That is the end of the last page, is it not?—A. Yes, sir.

Q. Now, what do you conclude from the fact that you do not find the number there at all—that you never issued the gun?—A. I never issued the gun. If I issued a rifle, that is the only way I had to keep up with it—by the number of the rifle.

Q. And this remark made by the experts, that the rifle was new, would indicate that it had never been issued, of itself, I suppose?—A. Yes, sir.

Q. And that confirms that idea. Where was that gun, if it never had been issued, on the night of the firing?—A. Those rifles that were never issued were always kept in the box, and the box screwed up.

Q. The lid fastened down on the box?—A. Yes, sir.

Q. And how was the room kept?—A. The room was kept locked up.

Senator FORAKER. We have gone over all that.

Senator WARNER. Yes; we have been over all that.

Senator FORAKER. I believe that I have accounted for each one of these rifles, now.

By Senator WARNER:

Q. If Major Penrose made a report—did you help him in making out any report?—A. No, sir.

Q. Your guns sometimes get mixed as to numbers?—A. Well, they didn't get mixed as to numbers; but sometimes they got the rifles mixed up. Men would come to me and complain, "So-and-so has got my rifle," but I could very easily tell them, "The number of your rifle is so and so, and you go and find it; you are responsible for it, and you go and find it."

Q. That would occur?—A. That would occur from time to time, that men would lose their rifles and could not find them, and they would come to me and complain, and say, "So-and-so has my rifle," and I would ask him, "What is the number of your rifle," and then I would go to the book and see if he was correct in his number, and if any one had that rifle he would have to give it to him.

Q. How many guns were turned in that were damaged, after the 13th?—A. I don't remember, sir; but there was several. I wouldn't say the exact number.

Q. Can you tell, approximately, the number?—A. I guess there were as many as five or six, to my recollection.

Q. There might have been more than that?—A. There might have been more and might have been less; but I know there were some turned in.

Q. And what did you do with those guns?—A. I put them in the arm chest.

Q. How many arm chests did you have?—A. I had seven.

Q. I know, but not seven with rifles in them, did you?—A. No, sir; I didn't have seven with rifles in them. But when the seventy rifles came there they came ten in an arm chest, and that made me have seven chests.

Q. But how many did you have there that had rifles in them?—A. I had about two.

Q. Were there more than that?—A. No, sir; I don't think I had more than two, because there were always from 58 to 60 men there that were issued rifles, and I had only 70 rifles, and that gave me seven cases.

Q. I understand that. There was no doubt about that. You got 70?—A. Yes, sir; only I don't remember exactly how many arm chests I kept rifles in.

Q. Were there any of these arm chests that you never had opened since you got it from the arsenal?—A. No, sir; they all had been at one time opened.

Q. When did you open them last before the 13th of August?—A. I can not tell.

Q. You can not tell?—A. No, sir; not when I opened them last after the 13th.

Q. Before the 13th, I say?—A. Before the 13th? I can't tell when I opened them last. I know I had them all opened at one time.

Q. You opened them quite frequently?—A. Yes, sir; quite frequently I had them to open.

Q. What would cause you to open them frequently?—A. In putting rifles in and getting them out.

Q. Whenever a man was discharged his rifle was turned in, you say?—A. Yes, sir; whenever a man was discharged his rifle was turned in and it was generally put in the arm chest.

Q. And you opened an arm chest and put that rifle in?—A. Yes, sir.

Q. So that, you think, occurred quite frequently?—A. Yes, sir; whenever a man was discharged, or even had an exchange.

Q. How often did you have that occur after you got to Brownsville?—A. I could not say, sir.

Q. Several times?—A. Yes, sir; it would be several times, but as for the number of times I could not say.

Q. That was true of other companies, as far as you know?—A. Sir?

Q. That would be true of other companies, as far as you know?—A. Yes, sir; I think so; those that had the same orders that I had. I had orders to keep all the rifles in the arm chests, and if a man turned in a rifle I would put it in an arm chest, even the officers that used rifles on the target range. They would use them on the target range, but some of them kept their own—

Q. But you had no target range at Brownsville. We do not care about that.—A. No, sir; I was just speaking of the general rule. If they sent their rifle to me, I always put it in the arm chest.

Q. At Fort Niobrara, how many rifles did you have in the store-room out of arm chest?—A. Out of the arm chest? I don't know as I had any of the Springfields, but when the Krag-Jørgensens were turned in I had then. That was at Fort Niobrara.

Q. Yes; but I was speaking of the Springfield.—A. Yes, sir; the Springfield. I don't remember.

Q. How many of the Springfield rifles did you have in the store-room at Brownsville before August 13?—A. I think I had about 11.

Q. Out of the arm chests?—A. Out of the arm chests. I mean I had 11 in the arm chests.

Q. Yes; but I asked you, I thought, Sergeant, how many you had out of arm chests?—A. I had, I think, about—

Q. I will make my question more definite. How many did you have that were not in the hands of men which were out of the arm chests?—A. I didn't have any that were out of hands of the officers and men that were out of the arm chests.

Q. Where did you keep your gun?—A. It was kept out of the storeroom, and in the rack in the barracks.

Q. And the first sergeants kept theirs there also?—A. Yes, sir; all enlisted men that were on duty that had a rifle; it was always generally in the barracks in the racks.

Q. You did not keep yours down there?—A. No, sir; I did not. When I had to go on duty or on drill I always went to the rack.

By Senator FORAKER:

Q. There is one other thing that I will have to ask him about. This report made by the experts shows that a number of rifles were found, when they were received at the arsenal, to have been fired and not cleaned. It was reported that they had foul bores.—A. The only thing I know about that is that when we got to Reno there was recruit practice there. They sent a lot of recruits out there, to my knowing, many times; twice, or maybe more, to shoot, to practice on the range. And then they had competition shooting there once or twice.

Q. Competition in which the older soldiers engaged?—A. Some of them; yes, sir.

Q. Let me ask you this question: Rifle No. 54033 appears on your book there charged to James Woodson, does it not? Just look and see.

A. (After examination.) Yes, sir; I know I issued him—I remember of issuing him ammunition to go out and shoot at Reno.

Q. He was in the target practice?—A. At Reno, to shoot.

Q. Yes.—A. I issued him so many rounds.

Q. Look in the book, now.—A. A great many times they would go out and shoot at these practices and bring their rifle right in and set it in the rack and wouldn't clean it unless they had to go on guard or had to go out somewhere where the rifle would be inspected.

Q. I don't care anything about that.—A. I was just showing where these rifles were turned in dirty.

Q. Just turn to James Woodson's name, now, and tell me what the number of the gun was that he had. I will ask Senator Hemenway to assist you in finding those numbers.

Senator HEMENWAY. It was No. 54033, according to the book.

By Senator FORAKER:

Q. Now, you say he was in target competition?—A. I think he was. He was a recruit in the company.

Q. I have a memorandum before me, and after refreshing your recollection I will ask you if they did not shoot in details of five?—A. Yes, sir. I don't know what the details was, but I know—I remember—that he were out.

Q. He was one of them?—A. Yes, sir; I remember of issuing him ammunition to shoot.

Q. Look at the name of Lewis Baker and see what gun is charged to him?—A. Lewis Baker was the artificer at the time.

Q. I will ask you if you find him there also?—A. He wasn't, at that time; he was discharged. He was artificer at one time and cook at one time.

Senator HEMENWAY (after examination of book). Lewis Baker had gun No. 52210.

By Senator FORAKER:

Q. He was in the firing there?—A. Yes, sir.

Q. This was at Fort Reno I am talking about?—A. Yes, sir; Fort Reno.

Q. Now, see what number was charged to Walter Banks.

Senator HEMENWAY (after examination of book). Walter Banks; No. 47527.

By Senator FORAKER:

Q. Can you tell me, now, whether he was engaged in the competition?—A. I could not say, sir. I know there were several in it.

Q. I have a memorandum here which says that at post rifle competition on August 30, 1906, of Company C, at Fort Reno, there was a detail consisting of Private Preston Washington, Private John T. Hawkins, Private Leartis Webb, Private Joseph Rogers, and Private Walter Banks. Does that refresh your memory?—A. Well, I remember some of them.

Q. You do not remember about Banks?—A. No, sir.

Q. He was a musician, was he not?—A. Yes, sir.

Q. Look at the name of Joseph Rogers and see what gun was opposite his name?

Senator HEMENWAY (after examining book). Joseph Rogers had No. 46740.

By Senator FORAKER:

Q. That is right. Can you tell us whether he was engaged in this competition firing?—A. No, sir.

Q. You do not remember about that?—A. No, sir; I do not remember just who was in that.

Q. See what gun is opposite the name of William Turner?—A. William Turner?

Q. Yes.—A. The first sergeant?

Q. First Sergeant William Turner.

Senator HEMENWAY (after examining book). William Turner, No. 42956.

By Senator FORAKER:

Q. No. 42956. Tell us whether or not he was engaged in target firing at Fort Reno, if you know?—A. No, sir. I know that he was not, because he was at that time first sergeant, and he is the man that gave me the order to issue ammunition for this target practice.

Q. He was the first sergeant?—A. He was the first sergeant at that time; yes, sir.

Q. He was not in Fort Brown at the time of the firing, was he?—A. No, sir.

Q. Where was his gun?—A. He had it with him.

Q. He took his gun away with him?—A. Yes, sir.

Q. He was at Fort Sill?—A. Yes, sir; on competition, and he had his rifle with him, and Lieutenant Hay also was there and had his rifle with him.

Q. Look now at John Kirkpatrick's name and see what rifle he had.

Senator HEMENWAY (after examining book). John Kirkpatrick, No. 53292.

Senator FORAKER. Is it 53292? My memorandum shows it was 53929. But that was probably a mistake in copying that number.

By Senator FORAKER:

Q. Where was John Kirkpatrick the night of the firing?—A. As well as I can recollect, I think he was in the hospital.

Q. Yes; he was in the hospital, was he not?—A. Yes, sir.

Q. Where was his gun?—A. His gun, I had it in the storeroom.

Q. It was in the storeroom?—A. Yes, sir; always when a man goes to the hospital the noncommissioned officer that takes him to the hospital reports when he comes back that such and such a man is in the hospital, and he takes up everything he has.

Q. I find that mistake was made in copying on this list that I have. The number should be No. 53292. Is that the number, you say, on the book?

Senator HEMENWAY. That is the number.

A. Yes, sir; that is the number. As a general rule when they take a man to the hospital they take up all his ordnance and put it in the storeroom. Any man that goes to a hospital they take it up and put it in the storeroom.

Q. Now, look at the name of Preston Washington and see what gun he had.

Senator HEMENWAY (after examining book). Preston Washington, No. 54835.

By Senator FORAKER:

Q. That is right. Do you remember whether he did firing at Fort Reno?—A. No, sir; I do not.

Q. I will show that, then, by somebody else. This memorandum shows that he headed the list of the detail made August 30 to do competition firing. The detail also consisted of Hawkins, Webb, Rogers, and Banks. Does that refresh your recollection or not?—A. It was a general rule that all poor shots had to shoot in the fall. We called them "winter shots."

Senator FORAKER. I believe that is all.

By Senator WARNER:

Q. Which one of these was it that you said was in the hospital?—A. Kirkpatrick was in the hospital at the time.

Q. And when a man went to the hospital his gun was turned in to the storeroom?—A. His gun was in to the storeroom at that time.

Q. And put in the arm chest?—A. Yes, sir. Any man that went to the hospital this morning, his gun was put in there, and he taken all his effects up except his own personal property, and carried it in the storeroom; but his rifle always was put in the arm chest. That was Captain Macklin's orders.

Q. So that you had those arm chests convenient, so that you could get at them and put guns in and take them out?—A. Yes, sir; they set right in the storeroom, and we always kept one open—I mean handy—so that I could just unscrew it and put a rifle in it and screw

it right up; I kept it handy so that if a man came out I could get to it and give him his rifle.

Q. So it would be handy to get them?—A. Yes, sir; that is what I meant by "handy," so that I could put it in handy; and if a man came out, I could give him his gun.

Q. That has been your observation of the general conduct of the business in the companies, has it not?—A. Yes, sir.

Q. As quartermaster-sergeant, when a gun was turned in to you, it was your business to see that it was in proper condition, was it not?—A. If I had the time. Sometimes I didn't have the time. Sometimes the captain gave a rushing order, and he would be there himself, and I would probably just take it and put it in.

Q. Do you understand there was any rushing order when any of these guns were put in?—A. Yes, sir.

Q. Which one was there a rushing order about?—A. When they were all turned in there was a rushing order. They were turned in on a Sunday evening, and each man had to bring his cartridges and his rifle and turn it over to the captain.

Q. That is, when you changed your guns on account of getting a different gun?—A. That is, when we turned them in. You will remember that for a week, or a couple of weeks, maybe—I don't remember how many days—we were disarmed, and that is where these rifles were turned in.

Q. Where was that?—A. At Fort Reno; and they were turned in on a Sunday evening, just about dusk, a little before dark, and Captain Macklin received them and had them put in a chest and screwed up and sent away from the company.

Q. Sent to the arsenal, you understand, did you not?—A. I don't know where they went to; sent away.

Q. Yes; that is all right. I think that is all that I want to ask him.—A. Yes, sir; when the rifles were turned in they were turned in to Captain Macklin.

(Witness excused.)

TESTIMONY OF CAPT. EDGAR A. MACKLIN, U. S. ARMY.

(The witness was sworn by Senator Scott.)

By Senator FORAKER:

Q. Please give us your name in full, so that we may have it in the record.—A. Edgar A. Macklin.

Q. You are in the military service at this time?—A. Yes, sir; captain, Twenty-fifth Infantry.

Q. Were you with the battalion of the Twenty-fifth Infantry when it was at Brownsville last August?—A. Yes, sir.

Q. You were captain of Company C at that time, I believe?—A. Yes, sir.

Q. How long had you been captain of Company C?—A. At that time about two years; a little over two years, sir.

Q. You were with it then, at Niobrara?—A. Yes, sir.

Q. You were with it at the time when it turned in the Krag-Jørgensen rifles, and got the new Springfield rifles and ammunition for those rifles?—A. Yes, sir.

Q. Can you give us the date when that occurred, about? I do not expect it exactly.—A. The old rifles were turned in last March, sir.

Q. The last of March?—A. Last March; just about a year ago, sir.

Q. Yes; just about a year ago.

Senator SCOTT. He means March, 1906.

The WITNESS. Yes, sir; March, 1906.

Senator SCOTT. This is April now, you know?

By Senator FORAKER:

Q. I will ask you if it is not true that the rifles were received there for the different companies in the last days of March, but on account of some delay in getting ammunition, or something of the sort, they were not issued to the companies until about the 10th to the 12th of April?—A. Yes, sir.

Q. Is that according to your recollection?—A. Yes, sir.

Q. State whether or not at the time when you turned in the Krag-Jørgensen rifles you also took up and turned in all ammunition, and everything else, belonging to those rifles.—A. Yes, sir.

Q. As a part of that outfit?—A. Yes, sir.

Q. So that when you got your new rifles you started in with a clean sheet, so to speak?—A. Yes, sir.

Q. How many rifles did you get in Company C?—A. Seventy.

Senator WARNER. I think there is no controversy about that.

Senator FORAKER. No; I am just laying the predicate for something else.

By Senator FORAKER:

Q. And do you remember how much ammunition you got at that time? That is not important. I will just pass that by.—A. I can tell you how much I got. I got 400 times 65.

Q. I was going to call your attention to your report, so far as the ammunition is concerned. I have put into the record here at page 273 your ordnance returns, in so far as they relate to small arms and ammunition, taken from the War Department. I find at the foot of this report the following certificate:

I certify that the foregoing return exhibits a correct statement of the public property in my charge during the half year ended June 30, 1906, and that the maximum strength of the company during the half year was 65 enlisted men.

That certificate was truthful and accurate, was it?—A. Yes, sir.

Q. State whether or not the amount of ammunition shown to be in your company, and for which you were responsible, was accurately given in that return.—A. It was, sir.

Q. As the result of actual counting?—A. Yes, sir.

Q. And inspection?—A. Yes, sir.

Q. I see another report by you, which is printed on page 274 of our record, dated January 1, 1907, with a similar certificate. Will you look at that report and state whether that is also accurate?—A. (After examination.) That report, Senator, is accurate as counted by my second lieutenant. I was sick in the hospital at the time that was made, and he made it and verified it and I made the return.

Q. I call your attention to the 5,700 ball cartridges which according to that report remained on hand—the 1,100 blank cartridges, the 130 dummy cartridges, and the 650 ball cartridges, reduced range.—A. Yes, sir; that is correct.

Q. That is correct, is it?—A. Yes sir; that I have verified since that date.

Q. You have verified that since that date?—A. Yes, sir.

Q. You still have that amount on hand?—A. Yes, sir.

Q. And you had that amount of ammunition in your company the night of August 13, 1906, did you?—A. Yes, sir.

Q. Captain, can you tell us what kind of ammunition your company was supplied with on the night of August 13, 1906?—A. Yes, sir; with the cartridge known as the guard cartridge.

Q. The one I last called your attention to on the return?—A. Yes, sir.

Q. That is the reduced range cartridge?—A. Yes, sir.

Q. How many of those did you have in the company?—A. I had 650 rounds.

Q. When did you get those 650 rounds?—A. I got them a year ago this last March.

Q. You got them at Fort Niobrara, along with the other ammunition?—A. Yes, sir.

Q. You never had but 650 of those cartridges, did you?—A. That is all; yes, sir.

Q. And your men had these cartridges in their possession on the night of August 13?—A. Yes, sir. That is the only cartridge they had.

Q. Tell us, now, how it came that they had that kind of cartridge and no other kind of cartridge at that time, if you know.—A. That cartridge was issued by the Ordnance Department of the Army for guard duty only, and in the garrison duty it was the only cartridge that the men were supposed to carry. All other ammunition was turned in, and each soldier of my company had 10 rounds of that ammunition.

Q. Where was this issued to your company?—A. It was issued at Brownsville.

Q. Will your property book show that issue? The book is right before you; will it show it?—A. I think it will, sir. I can not say positively.

Q. The property book is kept by—A. The quartermaster-sergeant.

Senator FORAKER. I will have to recall Sergeant McMurray for that.

The WITNESS (after examination of book). Yes, sir; here it is.

By Senator FORAKER:

Q. I will ask you if the property book of the company does not show that each man had issued to him guard cartridges, ten?—A. Yes, sir.

Q. That runs the same all the way through?—A. It should run the same all the way through.

Q. When you went from Fort Niobrara to Fort Brown, what kind of ammunition did you have?—A. We carried 20 rounds of ball ammunition.

Q. And then when you got to Fort Brown you had that turned in and issued what?—A. In two or three days after arrival at Fort Brown the ball ammunition of my company was turned in.

Q. Yes.—A. And I notified the men that I would make frequent inspection of lockers to see that all the ammunition was turned in, and I was satisfied within a few days afterwards that all my ammunition had been turned in.

Q. The 20 rounds they were charged with and any surplus that might have been accumulated, of any kind, also?—A. Yes, sir.

Q. You made that examination at Fort Brown?—A. Yes, sir; I made several inspections of it.

Q. So that you are able to state that the night of this firing your men had no ammunition whatever in their possession except only this guard ammunition?—A. I am perfectly satisfied in my own mind; yes, sir.

Q. This guard ammunition has, as we understand it, only about 15 grains of powder in the cartridge?—A. I don't know exactly how much, but the cartridge itself has a distinctive mark.

Q. And it has a lead bullet, without any steel jacket?—A. Yes, sir; and it has a distinctive mark around the top part of the cartridge.

Q. Did you or not make any examination after the firing to see whether or not your men had all this ammunition?—A. Yes, sir.

Q. This guard ammunition, I mean.—A. Yes, sir.

Q. And it was all there?—A. All accounted for; yes, sir.

Q. And all checked up?—A. Yes, sir.

Q. It was all counted, was it?—A. Yes, sir.

Q. Coming down now to the shooting affray at Brownsville, you were the officer of the day that day, I believe?—A. Yes, sir.

Q. And where were you when the firing occurred?—A. I was in bed, sir.

Q. At what place?—A. In my own quarters; in my bedroom.

Q. There is a map on the left of you, on the wall. If you will indicate which one of the officers' quarters you occupied you will confirm what all the others have said, at least.—A. It was No. 12, sir; right here [indicating on map]. I think that is the wrong number on there, but that is the quarters.

Q. You were at the end of the row?—A. Yes, sir.

Q. Where were you sleeping that night?—A. I was sleeping in the second bedroom upstairs.

Q. At the rear?—A. Yes, sir.

Q. Of that building?—A. Yes, sir.

Q. State whether or not you heard this firing at all?—A. I did not; no, sir.

Q. What time did you retire that night?—A. About ten minutes of 12.

Q. At what time did you get awake?—A. I first awakened at about five minutes of 1, and I finally got up about ten minutes after 1.

Q. What occurred when you got awake? Was there any firing when you got awake?—A. No, sir; there was nothing at all. One of the men rushed into my room and said that the commanding officer wanted to see me, and I hurried out with him.

Q. That was ten minutes after 1?—A. Ten or fifteen minutes after 1; yes, sir.

Q. You reported, then, to the commanding officer?—A. Yes, sir.

Q. What did he direct you to do?—A. He directed me to take command of my company.

Q. Where did you find your company?—A. I found my company over about the rear of my own company quarters—Company C.

Q. Under whose command?—A. Under command of Lieutenant Grier.

Q. What did you do, relieve him, or what?—A. Yes, sir; I relieved him and took command of my company.

Q. State whether or not you continued as commander of that company the rest of the night.—A. I did; yes, sir.

Q. How long did you remain with your company at the place where you found it when you took command of it?—A. I don't believe it was over ten or fifteen minutes.

Q. What were you then ordered to do?—A. The commanding officer directed me to take my company and place it on guard, and throw a skirmish line around the post, and extending from the rear of Company D quarters to a point almost directly in rear of the quartermaster's storehouse; that is, really covering the front of Fort Brown.

Q. Before we come to that, Captain, I will ask you if you were first relieved from duty in rear of the wall where you found your company and returned to the barracks, and if you afterwards got this order?—A. I was relieved from there; yes, sir; and ordered to verify my men again. I was ordered to make another inspection of my men and verify them.

Q. That was immediately after you took command of your company?—Yes, sir.

Q. State what you did to verify your men.—A. I assembled the company in line. I directed the first sergeant to call the roll. The first sergeant started to call the roll, and he was apparently very much excited, so I took the lantern from him, and also took his roll.

Q. That was the acting first sergeant?—A. Acting First Sergeant Harley.

Q. Yes.—A. So I called the roll.

Q. You called it yourself?—A. Yes, sir; and not being satisfied with that I counted the men. I knew how many men I should have and was responsible for, and I counted them, and they checked up.

Q. That is, they were all there?—A. Yes, sir; all except the three men who were on pass and those on guard duty.

Q. Then after that what were you directed to do?—A. I was then directed to take my company and put it on guard for the remainder of the night.

Q. First, about coming back to the quarters; did you come back to quarters and put your guns in the quarters before you went out on guard for the night, or not?—A. Yes, sir.

Q. I think it has been testified by somebody that you returned to the barracks with your company, and then formed your company later, again, after you got this order.—A. We were in front of the barracks quite a little while, and I went into the barracks and made an inspection of the gun racks.

Q. By "in front of the barracks" you mean on the parade ground?—A. Yes, sir.

Q. So that you had returned from in rear of the wall?—A. Yes, sir; and I went into the quarters and made a personal inspection of the gun racks.

Q. What condition did you find them in?—A. I found two racks very badly damaged. I asked the noncommissioned officer in charge of quarters, Sergeant Brawner, how it happened, and he told me that the racks had been opened by command of the commanding officer; that they had been hit with an ax.

Q. What did he say as to why they should have been broken open?—A. The second sergeant, Sergeant Carlisle, said that Sergeant Brawner had declined or refused to open the gun racks at the sound of the call to arms, but that he wanted to consult with the acting first sergeant and ask the captain what he should do, and that he had gone downstairs, and that in the meantime Major Penrose had appeared in front of the quarters and told C Company to fall out, and they said that they had no arms, and he asked them why, and they told him, and he said, "Go in and cut the racks open with an ax, if necessary." There were no lights at all in the quarters, and the men were very much frightened, and they were afraid to light the lamps in the quarters, and the upper and lower squad rooms were absolutely dark.

Q. Did Sergeant Brawner give you any excuse for not opening the racks?—A. He said he didn't know what to do. He had heard all this firing, and he thought they were shooting at them, and he didn't know what to do without an order from a commissioned officer.

Q. Without an order from a commissioned officer?—A. Yes, sir.

Q. Two of the racks were broken—badly damaged, I believe you said?—A. Yes, sir.

Q. Do you know how many of them were really unlocked? Do you know whether Sergeant Brawner, when Major Penrose gave that order, did go and unlock some of the racks or not?—A. I don't know, except by hearsay.

Q. That was all before you appeared on the scene?—A. Yes, sir.

Q. Sergeant Carlisle told you that Major Penrose had given the order to break the gun racks open. I will ask you whether or not you ever heard Major Penrose say that he gave such an order?—A. Yes, sir; he told me so that night.

Q. He told you that night, after you took command of your company?—A. Yes, sir.

Q. You examined these gun racks and found them in this condition. As a result of that, what did you do as to the guns? At the time you were about to dismiss your company, were you not, for the night?

Senator WARNER. He had not gone out on guard duty.

(The question was not answered.)

By Senator FORAKER:

Q. After you had inspected the gun racks, you got an order to go and put your company on guard?—A. After that the guns were put in the storeroom and I took charge of the whole thing. There were bars on the windows, and I had the back door nailed up, and the guns were put in the storeroom and locked up.

Q. After you found the gun racks broken, you had them put in the storeroom?—A. Yes, sir.

Q. And the windows were barred and the door was nailed up?—A. Yes, sir.

Q. How long did it remain that way before you got this order to go on duty that night?—A. I don't think it was over five minutes.

Q. You hardly got this work done before you got this order?—A. Yes, sir.

Q. What did you do; get out your guns again?—A. Yes, sir.

Q. State, if you know, what kind of ammunition you found your men in possession of at that time?—A. Well, Mr. Grier had reported to me that he had issued one box of ball ammunition himself. He had supervised the opening of it, and nearly all the men had that. Some had 10 rounds and some more.

Q. And then you went out and put your men to guard?—A. Yes, sir.

Q. In the way directed?—A. Yes, sir.

Q. You extended your line all the way around, I understood you to say, how far?—A. I extended my line almost from the old gate of Brownsville—

Q. Is that the main gate?—A. Why, the old gate, which is about here [indicating on map]; my line extended from there away around [indicating on map].

Senator FORAKER. The witness points, when he says "about here," indicating a point near the Rio Grande River west of the west end of D barracks.

By Senator FORAKER:

Q. It extended from there around to where?—A. Away around to the quartermaster's storehouse. I do not see the quartermaster's storehouse on there.

Q. It is around here [indicating]. It is a part of the corral, is it not? That is what we have been calling all that.—A. It should be No. 60 on the map. That is probably intended for it, but I do not believe that is it.

Q. You put out what is called "Cossack" posts?—A. No, sir; I had a single line of sentinels. The Cossack posts were not used until after that night.

Q. Later you had the Cossack posts?—A. Yes, sir; after that night.

Q. Now, your company remained on guard how long?—A. I think until 7.30, about, when they were sent in for breakfast.

Q. Who relieved you?—A. Lieutenant Lawrason, with Company B.

Q. Before you went off guard, what, if anything, did you do in the way of trying to find out who had done this shooting? I mean, did you inspect your arms and count your ammunition or do anything of that nature?—A. Yes, sir.

Q. By whose order did you do that?—A. By Major Penrose's, sir.

Q. Before we pass to that, let me ask you what that order was, as to when you should do it?—A. The order from Major Penrose was that company commanders should inspect the arms of their company, and that I should also inspect the guard just as soon as it was light enough to see.

Q. Light enough to inspect?—A. Yes, sir.

Q. State now whether or not before you started to inspect you made any investigations either inside or outside the wall of the

reservation, to see what you could find, if anything at all, as a result of the firing.—A. Yes, sir; after I went on guard my station was at the main gate. I had there two noncommissioned officers and six men, and during the night I stayed there except the times that I went away to make inspections. Just as soon as the streak of dawn came I walked up and down inside of the wall, looking for shells. Then I went outside of the gate and went over as far as the telegraph office—

Q. Before you go outside, tell us whether or not you found any shells or anything else inside?—A. No, sir; I did not find anything inside. I went all along the line there inside and did not find anything. Then I went outside, over as far as the telegraph office, which is on the corner of Elizabeth street and right opposite the gate. I did not see anything at all, and then walked down outside of the wall toward the alley, which is directly in the rear, or almost directly in rear, of B Company quarters. Right there at the mouth of the alley I found 6 clips, I think it was, and 7 shells, or approximately that.

Q. Six clips and 7 shells?—A. Yes, sir.

Q. Were they exploded shells?—A. Yes, sir.

Q. They were the shells of cartridges that had been fired?—A. Yes, sir.

Q. And they were of the Springfield rifle?—A. Yes, sir; the Springfield rifle.

Q. And the clips were the same?—A. Yes, sir.

Q. You had no clips with the Krag-Jørgensen at all, had you?—A. No, sir.

Q. Now, you found 6 clips and 7 shells?—A. Yes, sir; I think that is the number; I don't recollect.

Q. One clip accommodates how many cartridges or shells?—A. Five.

Q. They were hardly in proportion, then?—A. No, sir.

Q. Now tell us in what position on the ground—you found these on the ground, did you?—A. Yes, sir.

Q. In what position did you find these clips and shells with reference to each other, and indicate on the map just as nearly as you can where you found them; the exact spot. You can see the alley indicated there.—A. Just about in that position [indicating].

Q. You point to the center of the alley on the town side of Fifteenth street.—A. I have forgotten the width of that alley, but I think it was 16 feet, and they were just about in the middle of the alley.

Q. And they were on the town side of the street that runs along parallel with the wall and outside of it?—A. Yes, sir.

By Senator OVERMAN:

Q. How far from the wall?—A. I should say about 6 or 8 feet—about 8 feet, about half way.

By Senator FORAKER:

Q. The road there is 30 feet wide, as I understand it?—A. Not that distance; no, sir; I think it is 16.

Q. No; the road is shown on the map to be 30 feet wide. It is marked an inch wide, and the map is drawn to a scale of 30 feet to the inch.—A. Very well.

Q. Did you find these shells in the mouth of the alley or did you find them in the road?—A. I found them right in the mouth of the alley, looking up the alley—you could see up the alley—and when I picked up the shells I stood over them, because there were a lot of people up the road and they were looking down toward the alley. There was a great crowd congregated about. I spread out my feet and stooped down over the shells and picked them up, and they were in a space not over that large [indicating]. They were all in a bunch.

Q. You indicate a space circular in form and about how large in diameter?—A. Well, not over 10 inches, sir; 10 or 12 inches in diameter.

Q. Ten inches in diameter. I notice that in your testimony before the court-martial you said a space with a radius of not more than 12 to 15 inches. Did you mean radius or did you mean diameter?—A. I meant diameter, sir.

Q. You want to correct that statement as you now make it?—A. Yes, sir.

Q. Would that be the natural position in which you would expect to find six or seven shells that had been fired out of one of these high-power Springfield rifles?—A. No, sir; it would be impossible to find them that way.

Q. It would be impossible?—A. Yes, sir.

Q. When one of these cartridges is fired out of a Springfield rifle such as you were equipped with there, how far would the shell be thrown ordinarily by the ejector?—A. Well, ejecting it rather quickly, I should think it would be thrown at least 8 or 10 feet.

Q. And then when the shell strikes what happens to it? Does it jump or bounce about on the ground?—A. It depends on the nature of the ground.

Q. That was in an alley—a roadway.—A. In that place it would stick. It was soft ground.

Q. In soft ground it might not bounce?—A. No, sir; it would not bounce at all.

Q. When a soldier or anyone else stands and fires one of these rifles, holding it in the same position, does each one of 5 or 6 shells fly the same distance and in exactly the same direction, or are they likely to be thrown in different directions?—A. They would be very much spread about. I do not think any two would drop in the same place.

Q. They would be scattered over perhaps how much ground?—A. Well, perhaps at least 4 feet—3 to 4 feet.

Q. Now, Captain, can you tell us whether anybody had preceded you there that morning or anybody been there ahead of you to see those shells?—A. I am satisfied no one was there, sir. I went away and made an inspection of my sentinels about 3.30 or 4 o'clock. When I returned the sergeant told me no one had been there.

Q. What sergeant was that?—A. That was Sergeant Carlisle. I took Sergeant Harley with me on my inspection of the sentinels.

Q. What kind of men are Sergeant Harley and Sergeant Carlisle? Have you known them well for all these years you have been commanding that company?—A. Yes, sir; you can depend on them anywhere.

Q. They are truthful, reliable men?—A. Yes, sir; anywhere. I would go anywhere with them.

Q. Now, captain, let us take up the inspection of the guns. You were ordered, as I understand it, to make an inspection of your guns as soon as it got light enough for you to do so. State whether or not you executed that order; and if so, where and in what manner and with what results.—A. Yes, sir. Just as soon as I came in, or shortly after I came in from the wall, I started in at the lower sentinel, who was near the old gate of Brownsville.

Q. That is down next to the river?—A. That is down next to the river; and I went from man to man along the line.

Q. You spoke a minute ago about taking some one with you—Sergt. Newton Carlisle?—A. Yes, sir; that was on the inspection of the sentinels at about 4 o'clock in the morning.

Q. We will come back to that, then. I thought it was this same inspection?—A. No, sir.

Q. Go ahead.—A. I inspected every man of my company who was on duty there, around to the last sentinel. After I had inspected him I went over to the guardhouse, had the guard turn out, and inspected all the guard. One member of the guard was at the guardhouse at that time, Private Howard. The commanding officer had informed me before, when I first met him that night, that Howard had given the alarm and had fired his piece. And when I came to his piece I did not inspect that. He told me he had fired it.

Q. State whether or not he presented his piece to you for inspection.—A. Yes, sir.

Q. And told you himself that he had fired it?—A. Yes, sir.

Q. But the commanding officer had already told you?—A. He had. He told me, and also one of the other officers, I don't know whether Captain Lyon or Lieutenant Lawrason, had also told me.

Q. You inspected every man on guard, every man of your company, did you?—A. Yes, sir.

Q. What was the result? Did you find any dirty guns?—A. No, sir; I did not find any at all; none of them that were even suspicious.

Q. Was your inspection a careful and rigid inspection?—A. I think it was very rigid; yes, sir.

Q. You were directed by the commanding officer to make this inspection with a view to finding out whether any gun had been fired?—

A. Yes, sir; this inspection was as thorough as the inspection you make to select an orderly for the commanding officer; just as thorough.

Q. Just as thorough as that?—A. Yes, sir.

Q. Now, Captain, tell us, before we get away from that, whether or not your men had any opportunity while they were on guard that night, or at any time during that night after firing, to clean their guns and put them in the perfect condition in which you found them?—A. I do not think they did, Senator.

Q. Stationed as they were, did they have any opportunity to supply themselves with water or anything else to saturate the rags that it would be necessary to use in making a thorough cleaning of the guns?—A. No, sir; the men were afraid to leave their places.

Q. State whether or not you went up and down the line while they were on duty, from time to time.—A. I did; yes, sir. I had three inspections made of that line from the time they first went on until daylight.

Q. What was the purpose of those inspections?—A. To see that

the sentinels understood their orders and that everything was in a quiet condition, and also to inquire whether there were any people forming outside, or whether they had seen any demonstration outside.

Q. What was your idea during the night, and what was the idea of your men, if you know, as to what had occurred—who had done the firing and what was the purpose of it?—A. The men all seemed to be satisfied that the firing had come from the outside. In fact, when I stood in the open gateway under those street lamps that are above the gates, Sergeant Carlisle and Sergeant Harley and other men all asked me to come away; said I would certainly be shot if I stayed there.

Q. They seemed to be afraid?—A. They were very much afraid, and there was not a soldier there who would put his head above that wall except to peep over.

Q. It is testified by one of the citizens of Brownsville that just at the break of day he saw some officer of the fort out in the mouth of that alley picking up something, and he described how he was dressed. I wish you would tell us how you were dressed.—A. I had on leggings and khaki uniform and a campaign hat.

Q. And your saber?—A. No; a revolver; did not have my saber on.

Q. You had your leggings on?—A. Yes, sir.

Q. He described it in about that way. Was there any other officer out there?—A. No, sir; I was the only officer on duty there at that time.

Q. No other officer on duty?—A. The others were inside. They were all moving about near the junction, about barracks B and D. Major Penrose was out there.

Q. So that if this man saw an officer out there it must have been you?—A. Yes, sir; it could not have been anyone else.

Q. And you were out there at that time and dressed in that way?—A. Yes, sir.

Q. Now, Captain, you have had a good deal of experience, I suppose, by observation at least, in regard to the cleaning of these Springfield rifles. Can you tell us whether or not they could be cleaned and put into the perfect condition in which you found them, after they had been fired half a dozen times at midnight, situated as your company was—could they be cleaned that way in the dark?—A. No, sir; I do not think so. The powder would be left in the breech.

Q. It is absolutely necessary, is it not, to have light, as well as a reasonable amount of time to clean these rifles?—A. It is; yes, sir.

Q. In addition to cleaning the bore they have got to clean the chamber?—A. A soldier might clean the bore, but the powder would be apt to drop down in the chamber, and it would be detected very easily.

Q. If there had been only a cleaning of the bore to remove powder stains in the bore that would not have been sufficient to put the guns in the condition in which you found them?—A. No, sir; it would not.

Q. Now, going back to the events of the evening before, did you get any special order from the commanding officer on the evening of August 13, if you can recall?—A. Yes, sir; at about half past 5 or a quarter to 6 I was directed by the commanding officer, as company

commander, to notify my men that all passes had been revoked; that all men were to be in the post or inside the limits of the garrison by 8 o'clock. As officer of the day I was directed by the commanding officer to send out three patrols at least, from 7 o'clock on, so as to bring in all men who might be out on pass, and to notify all men who were outside that passes had been revoked. I asked him if he wanted me to go out, and he told me to use my own discretion about it.

Q. State whether or not you did go out in town and make any observations yourself.—A. Yes, sir. I sent out three patrols—

Q. How many men constituted each of those patrols?—A. I can tell you about each patrol separately, if you wish, sir.

Q. Yes.—A. The first patrol I sent out was under Corporal Wheeler.

Q. He was the corporal of the guard, was he?—A. Yes, sir. This was all from the guard. I went to the guardhouse, had the guard form, and it was all present. I selected Corporal Wheeler and two privates, gave him his orders, that he should notify all men who were out that passes had been revoked, and that they were to return to the garrison. I told Corporal Wheeler to go along the wall—I think it was three or four blocks—up into what was known as the tenderloin district, and to patrol that thoroughly, then to go back into the town about three blocks and turn to his left and come over toward Elizabeth street and return to the post.

The next patrol—it might be termed a patrol—was one private—Private Ash. I sent him down to the river with instructions to notify any men going to or coming from Matamoros that passes had been revoked and that they were to return to the garrison.

The third patrol, the corporal's name I do not remember, but he had two privates also. I told him to go up Elizabeth street five blocks—that, I think, would take in one block beyond the post-office, up really into the residence district—to turn to the right three blocks, and then come back on the street that was parallel to Elizabeth street.

Q. Do you mean next to it?—A. No; three blocks over.

Q. What is the name of the third street parallel to Adams street?—A. I don't know what the name of it is, sir.

Q. I believe it is shown on some other map. It is not shown here, but whatever it was, it was the third street from Elizabeth street?—A. Yes, sir.

Q. At what hour in the night was that patrol sent out?—A. The first patrol left about 7.30; Ash left about the same time. I told Ash to remain at the wharf until 9 o'clock. He could hear the bell.

Q. What did you say to him about taking his gun?—A. He asked me if he should take his rifle, and I told him no; not to do it.

Q. State whether or not the other patrols were all armed.—A. They were armed; yes, sir.

Q. The first went out under Corporal Wheeler and the next went out about what time?—A. The next went out about 7.45 or ten minutes to 8.

Q. Do you remember what time they returned?—A. No, sir; I don't remember the exact time they returned. The first patrol went out approximately at 9 o'clock or thereabouts, and the fifth patrol went out soon afterwards.

Q. Do you know who were in the fourth and fifth patrols?—A. No, sir; I don't recollect their names now, it was so long ago.

Q. Each was under command of a corporal?—A. Yes, sir.

Q. And each had how many men?—A. Each had two men besides the corporal. The last patrol got in about 10 o'clock, sir.

Q. You state, at page 39 of the testimony given before the Penrose court-martial, as reported to us, as follows. I will read the question and the answer:

Q. Were you ordered to give the sentinel about the barracks any special instructions on August 13?—A. I was not. I will change that a little, to add that there had been a great many boys around the quarters, and it was either on that guard or just before that Major Penrose had given me instructions to keep the boys away from the immediate vicinity of the barracks. They came in there—we had all our property on the back porches, were just getting settled, and these boys would run up there and take some things, and always hanging around at meal times, so this special order was given to keep the boys away from the barracks.

Is that statement correct?—A. Yes, sir; that order was given to me under my report. I complained to the major about these boys hanging about the place.

Q. That answer is correct?—A. Yes, sir.

Q. They were in there picking up anything they could get their hands on?—A. Anything; yes, sir. You had to watch them all the time.

Q. So it became necessary to take these precautions?—A. Yes, sir. During the daytime that sentinel did not walk anywhere except in the back.

Q. Along in the rear?—A. Yes, sir.

Q. And at night he extended his beat?—A. He extended it around the quarters, keeping the quarters to his left.

Q. You also told in your testimony before the court-martial about some trouble some children were having with a dog. Will you tell us what that was and who they were and where it occurred?—A. After I made my inspection of the guard, which was about 11.15, I went over in rear of my own company quarters to see if any of the men were out on the porches. I had had some trouble a few days before that, or a week before that, with men sitting on the back porch or the front porch, keeping the other men awake. The first sergeant complained to me, and I gave the order a few days before to have all the men off the porches, and so I went down in the rear of my quarters, and nearly opposite the end of them I saw what I thought was a couple or two couples struggling, up near D Company quarters on the main walk. I unhitched my saber and ran up as hard as I could to the place, and when I got up there I found seven or eight children there in a bunch, and a big black dog was holding them off, so I took these children and walked with them. They were very much frightened, and some of the girls were crying. I walked with them out to the center of the parade ground. The largest one of the children, a little boy, I don't know what his name was, lived in the post. In fact, they all lived in the post. I asked them where they had been, and they told me they had been to a party over at Mr. Cowen's house.

Q. Mr. Cowen's house was in that neighborhood, was it not?—A. Very near; yes, sir.

Q. Can you locate it on the map? It is indicated to us as the house marked No. 2.—A. I can tell approximately. I don't believe

that is the house, sir. It is about the center of that block. It is not on a corner, as I remember; it is about here [indicating].

Q. We have understood that it fronted on the alley.—A. No; it fronts on this street—Fourteenth street.

Q. Fronts on Fourteenth street, and is located near the center?—A. Just about the center of the block. It is not on the corner, I am satisfied.

Q. Is there any other house between it and the alley?—A. Yes, sir; I am pretty well satisfied there is. I have seen the house several times. I am satisfied that there are a couple of houses in there between it and the alley.

Q. Are not the houses that you refer to between the Cowen house and the reservation, up in that direction?—A. No; there are other houses in here. There is a house here on the corner.

Q. Is there a solid front of houses on the alley there?—A. On Fourteenth street?

Q. No; on the alley.—A. I don't think the Cowen house is on the alley at all.

Q. It does not reach the alley?—A. No, sir.

Q. Did you ever go out and look at it to see particularly how it did stand?—A. I never went out there to make an inspection of the house. I was there about two weeks. I took Miss Cowen home one day from the Leahy Hotel. I am satisfied it was in the middle of the block.

Q. You took Miss Cowen home?—A. Yes, sir.

Q. When was that; before this occurrence or afterwards?—A. Before, sir.

Q. You knew the family?—A. Yes, sir; I knew them all.

Q. Was there any trouble between the soldiers and the Cowen family?—A. Not at all; no, sir.

Q. Well, however that may be, the house is there in that immediate neighborhood?—A. Yes, sir.

Q. On this map that we have here it appears that the Cowen house is in the middle of the block; that it does not extend to the alley. I do not refer now to the map on the wall there which we have been looking at, but to another map which we have here. Is there a vacant lot on the corner there between the Cowen house and the alley?—A. I could not say, sir; I don't know.

Q. You don't remember?—A. I don't think I ever went down there that far.

Q. In the printed record of the Purdy testimony is a picture of the Cowen house. Please look at the picture shown you, the one at the top of the page, and tell me whether that is the house you refer to as the Cowen house?—A. Well, Senator, I could not say; I don't know, sir.

Q. You are not sufficiently familiar with it?—A. No, sir; I am not. I don't think I ever saw the house but once. I really could not say, sir.

Q. Now, Captain, some of your men had some trouble when they went to Brownsville. We have heard a good deal about Private Newton, of your company, being struck over the head with a revolver by a man by the name of Tate. What can you tell us about that? When did it occur, if you can remember, and what was done about it, if anything?—A. It may have been on the previous Sunday,

not the Sunday immediately before the night of the 12th of August, but I think the Sunday preceding that, Newton came to me about 9 o'clock at night are reported——

Q. I think it is shown that it was done on the 8th. I will correct the date if that is not right.—A. I am not exactly positive about that, but Newton reported to me, as his company commander, that he had been assaulted by a citizen uptown; that he and Private Lipscomb of my company were walking on Elizabeth street; that they came to a party of four women and one man who were standing on the outside of the walk. It was a question whether they should go out in the street or pass between this party and the fence, and Newton said they decided to go single file past the party, between them and the fence; that when he got opposite this man the man pulled out a revolver and struck him on the head, used some profanity, and said he would teach him manners, not to pass white people on the sidewalk.

Q. His statement was that he had stepped off the sidewalk and was trying to pass between the sidewalk and the fence?—A. No, sir; between the party and the fence. The party were standing on the outside of the sidewalk, and he passed between them and the fence.

Q. And there was space enough there to pass without interfering with them?—A. Yes, sir; without any interference.

Q. Did you investigate it sufficiently to find out whether or not he pushed his way through among the ladies, jostling them as he did so?—A. I investigated the matter as far as I could with Privates Lipscomb and Newton. They were both very reliable men and very quiet soldiers, very inoffensive in their manner and everything, and I tried to find out and did find out who the man was that struck Newton, and also made a report to the commanding officer, and the commanding officer said that he would make a report to the collector of customs, a Mr. Van. I went down and got Mr. Van's name, and I also found out from the cashier of one of the banks in town the name of the man that struck Newton. It seemed that he had bragged about it in town, and the cashier had a little hesitancy in telling me his name, but finally gave it to me. I gave his name to the commanding officer, and the commanding officer said he would make a complaint and go down and see Mr. Van, but Mr. Van was out of the city.

Q. It has been testified here that Newton was a quarrelsome man, and was in the habit of getting drunk and getting into trouble. Is that true or not?—A. No; it is not. He was my company clerk for about a year and I came into intimate contact with him every day.

Q. Was his conduct that of a good man as well as a good soldier or not?—A. Yes, sir; it was. I would be glad to have him back any time. He was the kind of a man that any captain would like to have in his company.

Q. A truthful, reliable man?—A. Yes, sir.

Q. Would you believe his statement?—A. Yes, sir; I would.

Q. Do you know of anything at all in his character or in his record that would warrant you in distrusting a statement he would make under oath?—A. Not in any way; no, sir.

Q. Was he or not a man who would be offensive, especially in a city like that where there was, perhaps naturally, some prejudice, against colored men, when he was passing white people as he was passing

those people?—A. I do not think he would speak to anybody or offend anyone, Senator. He had a good deal of sense.

Q. What kind of a man was Lipscomb, who was with him?—A. Lipscomb was very much the same kind of a man; very quiet and inoffensive, a man who very seldom spoke.

Q. Where were they going when they got into this trouble?—A. They reported to me that they were simply taking a walk on Elizabeth street. The position they were in was somewhere out in the residence district. The walks were broad and it was the best street to walk on.

Q. Did Newton report that he had any warning whatever that he was going to be struck with this revolver in this way?—A. No, sir. Do you want the report he made to me?

Q. What did he say as to whether or not Mr. Tate gave him any warning whatever that he was going to strike him?—A. None whatever; no, sir.

Q. Just as he came around by the ladies—A. Just as he got opposite to him, he whipped out a revolver and hit him in the head with it.

Q. Knocked him down, did he?—A. Yes, sir.

Q. Was he badly wounded or not?—A. No, sir; he did not seem to be. He seemed to be feeling bad, offended about it.

Q. What did he say about it?—A. He said he thought as long as they were going along and both behaving themselves it was a very unjust thing, and I told him I would lay the whole matter before the commanding officer, Major Penrose, and that I was sure he would take the matter up. We did not know at that time who it was that hit him.

Q. Did that seem to be satisfactory to him or not?—A. Yes, sir; entirely so. I talked to him the next day. He was not excited any more than anyone would be over a thing of that kind.

Q. Did he show any revengeful disposition or make any remarks that indicated he would seek to revenge himself for this kind of treatment?—A. Not in the least; no, sir.

Q. Was he a man who would, in your judgment, be likely, even though mistreated in the way he claimed, to hatch a conspiracy or organize it to go out and shoot up a whole town full of men, women, and children indiscriminately at midnight?—A. No, sir; he was not that kind of a man.

Q. Was not that kind of man at all?—A. No, sir.

Q. Did you ever hear of his making any threats of revenge at all at any time before this firing?—A. No, sir. I talked with him several times about the thing, and I told him that Major Penrose and myself had taken the matter up and we would try and have it fixed, and I also told him the name of the man.

Q. Did that seem to be satisfactory?—A. Yes, sir.

Q. He did not even know the name of the man?—A. No, sir; he did not know the name of the man.

Q. Others of your men had trouble also—one man by the name of Clifford Adair had some kind of trouble. Can you tell us what that was?—A. Adair came over from Matamoros and brought with him a little silver pen.

Q. Was that a pen or a pin?—A. A pen.

Q. I have seen it sometimes put down in the reports as a pin.—A. It was a penholder.

Q. Something that he had bought at Matamoras?—A. He told me he paid a dollar Mex. for it, 50 cents gold, and he brought it over and had it in his pocket, and as soon as he came opposite the custom-house one of the officials there came out and stopped him, and he said, "Here, I will not allow any nigger to bring anything over here. You are smuggling; I am going to report you to your company commander." He said, "All right, go ahead and report it," and he took the penholder away from him.

Q. How did the custom-house officer know that he had this pen?—A. He searched him, sir.

Q. Searched him and found it?—A. Yes, sir.

Q. And then he used that language to him?—A. Yes, sir.

Q. What was the rule or the custom as to exhibiting articles for inspection to the custom-house officer when they were not in packages?—

A. Well, I really could not tell you, sir. I have not been over there but once. I was there once and they never inspected officers at all; but I have understood that they never inspected for any small packages at all, and that that penholder was a nondutiable article.

Q. What did that officer do about the pen? Did he leave it with Adair or did he take it away from him?—A. He took it away from him, and we have never seen it since.

Q. He kept it, did he?—A. Yes, sir.

Q. Did he make any report to the officers about it?—A. Adair reported to me.

Q. What was it?—A. He reported it to me on the morning of August 12—that was Sunday morning—and I told Adair that I would endeavor to get the penholder for him, but the affair came up on the 13th, and I was never allowed in town after that time. None of us were allowed in town.

Q. Never got to investigate it?—A. No, sir; I never had any opportunity at all.

Q. You did not have any opportunity to see the customs officer or take it away from him?—A. No, sir; he has the penholder yet. Adair told this man he was perfectly willing to pay the duty on it; and the man said: "No; I am going to report you for trying to smuggle."

Q. How much did the man claim the duty was?—A. He did not claim there was any duty. He told Adair he would not let him pay it.

Q. As a matter of fact, was there any duty on it?—A. I don't think so; no, sir. As a matter of fact, they brought in cigars and everything there.

Q. What kind of a soldier was Clifford Adair?—A. Clifford Adair was an excellent soldier. He was what we call an "orderly character," very neat and clean; nearly always got orderly for the commanding officer when he went on guard.

Q. Was he a quarrelsome man?—A. Not in the least; no, sir.

Q. Or the reverse of it?—A. Yes, sir.

Q. A quiet, peaceable man?—A. Well, he talked a good deal, like a good many colored men do, but he was inoffensive and a very neat, clean soldier.

Q. Was he or not a man who was impertinent in his manner, or the reverse of that?—A. He was not impertinent; no, sir.

Q. Was he a truthful man?—A. I have always found him so; yes, sir.

Q. Now, there was one other trouble—Private Reed had some trouble. What was that, if you remember?—A. Private Reed was also returning from Matamoros, and he came along the board walk there and one of the custom-house men boosted him off the sidewalk into the river.

Q. What were the facts about that, if you know?—A. I took the matter up and investigated it as far as I could with the other men, and had Reed in the next day, and he laughed and told me that he thought he had gotten just what he deserved.

Q. He had been drinking, hadn't he?—A. Yes, sir; he had been drinking and was noisy, and he said he was perfectly satisfied to let the matter drop.

Q. That was on Sunday evening, the 12th, was it not?—A. I think that was the night; yes, sir.

Q. And it was the next day, the 13th, when he told you this?—A. Yes, sir; I investigated it the following morning.

Q. Did he look as though he was busy at that time getting up a shooting party to shoot up the town?—A. No, sir; he was a happy, good-natured sort of a man.

Q. He did not have any murderous instincts, as far as you were aware?—A. No, sir.

Senator WARNER. Let me ask one question right there?

Senator FORAKER. Certainly.

By Senator WARNER:

Q. Could you tell whether he had any such purpose? Could you tell from his looks whether he had any such purpose or not?—A. No, sir; I did not think so.

By Senator FORAKER:

Q. There was nothing in his manner, and nothing in his tone, and nothing in his language, as I understand you, to indicate that he was seriously offended even?—A. No, sir.

Q. On the contrary, he said he got just about what he deserved?—A. Yes, sir; that is exactly what he told me. He laughed and told me those words.

Q. Did not ask you to do anything further?—A. He said he thought he had better let the matter drop.

Q. Were there any other troubles of any kind that your men got into there?—A. Those are the only ones that I recall at this time, sir. I don't think there were any others at all.

Q. Have you down until this time heard of any of your men making any threats before the 13th about shooting up the town or doing any violence to anybody in that community?—A. No, sir. I have talked with the men a good deal about this matter and my acting first sergeant told me—I asked him about the saloon business, and he said the men had no feeling in the matter. This was before the shooting. He said they had started their own saloon, some of their own men had, and that other saloons in town had provided bars for them, and that they were perfectly satisfied. We had a good post exchange there, and they frequented that very much indeed. In fact, a great many of the men stayed in the garrison. They played baseball, and

I ran the exchange. I was exchange officer, and they came there a good deal. I sold soda water for them, and they were in there all day.

Q. Your pay day was Saturday, the 11th, was it not?—A. Yes, sir.

Q. I will ask you if the saloon you refer to was one started by Allison, who had been discharged from Company B?—A. That is the one. I have never seen it, but I understood he ran it; yes, sir.

Q. Started about pay day?—A. Yes, sir; I think it was started that day or the day before or a few days before.

Q. And that saloon was located out to the east of the reservation?—A. I could not tell you, sir. I don't know where it was.

Q. Now, Captain, you have investigated the subject a good deal. I understood you to say, so far as your men are concerned, you have taken steps to find out whether or not any of your men were guilty of this shooting?—A. By every means that I thought was possible; yes, sir.

Q. That is, you have talked with them?—A. Yes, sir.

Q. Talked with all of them?—A. Yes, sir.

Q. Questioned them and had your noncommissioned officers try to find out?—A. Yes, sir.

Q. As a result of that, can you tell us who did do that shooting?—A. Well, sir, I do not think the men did it.

Q. You do not think the men did it?—A. No, sir.

Q. You are satisfied of that, are you?—A. I am satisfied of that. I have studied this subject from every phase of it. I think I have read almost every bit of evidence and testimony that has been given, not only that taken by General Garlington and the other inspectors-general, but in Major Penrose's court-martial, and the longer it goes on the more I feel satisfied that the men did not do the shooting. It is possible that there were a few shots fired from the barracks or some of those quarters by the men in their fright. Even when I joined the command that night the men were still under a heavy excitement and were very much frightened.

Q. But you have no knowledge whatever of anybody connected with the battalion firing a shot, have you?—A. No, sir; I have not.

Q. And you have no knowledge of any fact, have you, that leads you to suspect any man in that battalion of having participated in that affair?—A. Not in the least; no, sir.

Q. What was the character of the men who constituted that battalion, speaking in a general way? Were they a peaceable, orderly, well-behaved set of soldiers or not?—A. They were, sir, those reports in these books to the contrary notwithstanding.

Q. Had this battalion or any company of it or any men in it had special trouble during all the time you were connected with it?—A. Never; no, sir. There were individual fights, you understand, sir.

Q. They would fight one another?—A. Among themselves, sir, over drinking or something of that kind, but no other disturbances.

Q. State whether or not they did any drinking to excess as compared with other soldiers.—A. No; they did not. I have commanded white soldiers a good deal, and I found that the drinking among our men was much less.

Q. Drinking among the colored soldiers was less than among the white soldiers?—A. Yes, sir; very much.

Q. You would get through pay day with fewer arrests?—A. Well, sir, they were through that pay day at Brownsville and there was only one simple arrest in town.

Q. In the whole battalion?—A. In the whole battalion. There was not an arrest in the post at all.

By Senator SCOTT:

Q. Captain, I should like to ask you a question. When you took command of the company, was the impression made on you that the men thought they were being attacked, or were they attacking somebody?—A. They thought they were being attacked, sir, and the orders that were given to me as officer of the day were that in case of an attack, that we expected every moment, the men were to lie down and keep behind the wall, and the rest of the men, who were not protected by the wall, were to fall back on the parade ground and lie down, and no shots were to be fired under any circumstances, except on the order of a commissioned officer.

Q. And that would indicate that you all thought you were being attacked?—A. Yes, indeed; that is what we thought all night.

By Senator OVERMAN:

Q. At that time were you expecting an attack?—A. Yes, sir.

Q. Why?—A. I don't know why.

Q. Why were you expecting an attack at that time that you took command?—A. I did not know anything about the situation.

Q. But you said you were expecting an attack—why?—A. Me personally?

Q. Yes.—A. I did not know anything about that, sir.

Q. Were you expecting an attack or not?—A. I simply carried out orders that were given to me.

Q. Were you expecting an attack or not?—A. No, sir; I did not know anything about it.

Q. I thought you said to Senator Scott that you were expecting an attack.

Senator FORAKER. The attack was over before you took command of your company?

Senator WARNER. There is no evidence that there was an attack.

Senator FORAKER. The firing.

A. Yes, sir; the firing was entirely over. I did not know anything about the situation.

By Senator OVERMAN:

Q. Were the men expecting an attack?—A. Yes, sir.

Q. Why?—A. I don't know, sir.

Q. There has been no evidence of any attack on the fort before that?—A. That is what they thought.

Q. Were they not expecting an attack because some of them had been out attacking that town?—A. I don't think so, sir.

Q. Were they not expecting an attack by reason of the fact that they had been out in the town?—A. I can only tell you from hearsay that the first shots they told me were fired over the barracks, and these men got the impression that they were being fired upon, and they thought these people were coming back after them.

Q. Why should they think they were coming back?—A. I don't know, sir.

Q. Did you hear any talk of it?—A. No, sir; I did not talk with them on that line.

Senator FORAKER. I have not finished my examination.

By Senator OVERMAN :

Q. Why should they expect an attack?—A. I can not say. I can explain it this way. Senator, that from every point of investigation that I have made in this matter they have all stated that the first shots were fired over the barracks; that whoever fired the first shots fired four or five revolver shots. Personally I do not know. I did not hear it.

Q. That was before you took charge?—A. Yes, sir.

Q. If that was so, there had been an attack prior to that time.—A. Well, I don't know.

Q. Tell me why these men were expecting another attack after you took charge. You must have heard the conversation.—A. I don't know, sir; I did not hear any conversation at all.

Q. Why did you think they were expecting an attack?

Senator SCOTT. Senator, I think possibly I owe you an explanation. I asked him if they expected an attack. You are trying to fasten it on him individually.

Senator OVERMAN. He was one of them.

By Senator FORAKER :

Q. I knew I was forgetting something, and that is the reason I reserved the right to finish. I want to ask you what was the cause of these special instructions that were given you about a quarter before 6 o'clock the evening of the 13th? What was the cause of that? I refer to the Evans incident.—A. That was due to the alleged attack on Mrs. Evans the night previously.

Q. Did Major Penrose explain to you why he wanted you to take these precautions and send out the patrols?—A. He told me Mr. Evans had reported this matter to him, and that Mayor Combe had informed him that he thought it was better for the men not to go out in town that night.

Q. Was that because the mayor thought the men would shoot up the town or the town would shoot up the men?—A. He thought something might happen to them if there were a few of them around alone. In regard to the question that the Senator asked me about whether the men were expecting an attack, I heard no conversation about that. In regard to the men, I don't know anything about it at all.

By Senator OVERMAN :

Q. You don't know whether they were expecting an attack or not?—A. No, sir; I did not know anything about it. I simply carried out the orders that were given to me.

By Senator FORAKER :

Q. Your statement was that the conduct of the men and what you observed indicated that they thought they had been attacked?—A. Yes, sir.

(Thereupon, at 1 o'clock p. m., the committee took a recess until 2 o'clock p. m.)

AFTERNOON SESSION.

The recess having expired, the committee at 2 o'clock resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Hemenway, Warner, Pettus, and Overman.

TESTIMONY OF CAPT. EDGAR A. MACKLIN—Continued.

Capt. EDGAR A. MACKLIN, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. Captain, at page 562 of the printed report of the testimony before the court-martial proceedings in the case of Major Penrose you give a statement of the strength of your company. Can you give us now what the strength of your company was? First tell us how many men you should have had, on paper.—A. Sixty-two, sir.

Q. Can you tell where they all were?—A. Yes, sir; I think I can.

Q. I would like to get it into our record here.—A. Yes, sir; there were 45 men present that night. The first sergeant was at Fort Sill on the rifle competition. One man was on furlough at Kansas City, Mo.; 1 man sick in hospital at Fort Bayard, N. Mex.; 4 men on guard; 2 in confinement; 1 in the hospital—

By Senator WARNER:

Q. How many men on guard?—A. Four, sir; 1 in the hospital, 3 out on pass, 2 at the corral, 1 at Major Penrose's quarters, and 1 at Lieutenant Hay's quarters. I think that accounts for all of them, sir.

By Senator FORAKER:

Q. Let us see. That makes 62. Well, did you ascertain the whereabouts of every man who should have been about the reservation that night?—A. I did; yes, sir.

Q. And you checked up your entire company?—A. Yes, sir; I made a personal check of the men in the ranks at that time, and the others were all accounted for in the way I have enumerated them.

Senator FORAKER. I believe that is all I want to ask you.

By Senator WARNER:

Q. You were officer of the day?—A. Yes, sir.

Q. The duty of the officer of the day is to look after the welfare of the camp, the preservation of order, and its safety?—A. Yes, sir.

Q. He is charged with that?—A. Yes, sir.

Q. And you were charged with that that night?—A. Yes, sir.

Q. At ten minutes to 12 or thereabouts you went to bed?—A. Yes, sir.

Q. Did you undress?—A. No, sir.

Q. Did you lie down?—A. Yes, sir.

Q. You heard nothing of the shooting?—A. Nothing at all; no, sir.

Q. Only what was told you afterwards?—A. That was all, sir.

Q. That is all you know of it?—A. Yes, sir.

Q. Why was it that as officer of the day you went to bed, aside from the fact that you were tired?—A. Do you want me to give a full explanation of it, sir?

Q. In your own way. You are entitled to that, and I can not control that.—A. Why, Senator, every officer in the Army does that. The officer of the day in my regiment was required to make an inspection of every sentinel on post at least once. The guard manual and the Army Regulations and any orders that we had did not require an inspection after midnight. That used to be so before the present guard manual came out. Since the Brownsville affair the War Department has issued a special order requiring an inspection after midnight, but only since that time.

Q. I think possibly I can get at it in a shorter way. The fact that you retired that night and went to sleep showed that you saw no cause for any uneasiness on your part?—A. Not in the least; no, sir; everything was absolutely quiet. It was a very quiet night, sir.

Q. And you had sent your patrols out in town?—A. Yes, sir.

Q. Sent out three?—A. I had sent out five.

Q. You had sent one unarmed man down to the wharf?—A. Yes, sir.

Q. And with directions for him to remain there until 9 o'clock?—A. Yes, sir.

Q. And you had sent five patrols out in all?—A. Five in all; yes, sir.

Q. And no reports from anyone that you sent out gave you any indication of any trouble from the town?—A. No, sir; not in the least.

Q. Everything was quiet?—A. Yes, sir.

Q. That was the report?—A. Yes, sir. Well, they were not sent out to report that, but everything was quiet. They reported that.

Q. I say, that is what they reported?—A. Yes, sir.

Q. And the fact is that all the time you were stationed at Brownsville you knew of no trouble between a soldier and a Mexican?—A. I do not recall that I ever heard of any, Senator. I do not recall that I ever heard of any.

Q. That is your remembrance, that you never did hear of any?—A. No, sir.

Q. Or any trouble between any soldier of the Twenty-fifth and the police?—A. The only troubles were those I have mentioned.

Q. We will stick to one question. You never heard of any trouble between soldiers and police?—A. No, sir.

Q. Is it not a fact that the colored soldiers and the Mexicans mixed with one another more than with white citizens?—A. Yes, sir; they did.

Q. Fraternized quite friendly?—A. I am satisfied they did; yes, sir.

Q. And that was your observation there at Brownsville?—A. Yes, sir.

Q. And it is a fact that the Mexican boys, ranging up from 6 to 20 years, would come out there, would they not, and bathe?—A. Daily; yes, sir.

Q. In the lagoon where the water goes up there?—A. Daily; yes, sir.

Q. And the citizens would come out to the retreat?—A. Yes, sir; every day.

Q. And you saw nothing that indicated but what there was the best of feeling toward the soldiers by the people of Brownsville?—A. It seemed to be; yes, sir; on both sides.

Q. Now, all that you learned of this shooting was from the men?—A. No; from Major Penrose, Captain Lyon, Lieutenant Lawrason, and Lieutenant Grier.

Q. That night?—A. I had a conversation with Major Penrose and Mayor Combe that night and also with Captain Lyon.

Q. But certain of the soldiers told you that there was shooting, did they?—A. Yes, sir.

Q. In what direction?—A. Well, I did not go into that that night.

Q. At any time?—A. The next day I did. I made a thorough investigation the next day.

Q. Then how did they tell you the shooting had been done?—A. The men of my company that heard the first part of the shooting, I think, have nearly all made affidavits to the fact that this first firing was over the barracks. That is the impression that I gained from the investigation of those men.

Q. The affidavits will show for themselves. I ask you.—A. That is what they told me. I prepared the affidavits.

Q. And that was the claim generally of your men?—A. Yes, sir.

Q. That the first shots were over the barracks?—A. That is, toward the barracks.

Q. Haven't you stated in your direct examination that it was over the barracks?—A. Well, it is possible that I did; yes, sir. I don't think they struck the barracks, because we found no indication.

Q. I am not asking you that. We will come to that. I ask you what the men said to you, whether it was toward or over the barracks—the first shooting?—A. The men told me that the first shooting was toward the barracks.

Q. Where did they say the men were who did the shooting?—A. They said the first firing appeared to be directly in rear of B Company, about where the alley is.

Q. About where you found those shells?—A. Yes, sir; that is where the alley is; yes, sir.

Q. And they told you the men were there near the barracks, and shooting at the barracks?—A. Shooting toward the barracks.

Q. Did you make an inspection of the barracks to see if any shot had hit it?—A. I did; an investigation of my own. That is, I did not go on the roof. I went on the porches.

Q. Did you find any evidence?—A. No, sir.

Q. Did that strike you as being a little bit peculiar, Captain, that men standing off within a hundred feet, shooting at the barracks, would miss it?—A. Well, I do not see how anyone could miss it at that distance.

Q. Did it strike you as being singular?—A. Well, it did seem a little strange; yes, sir.

Q. Did you question the men further about it?—A. Yes, sir.

Q. What did you ask them?—A. I went into the thing in every way that I possibly could, and they have never changed.

Q. Still claim that they were shooting at the barracks?—A. Toward the barracks, sir.

Q. Toward the barracks?—A. Yes, sir.

Q. You say that they seemed to have the impression that the barracks was being attacked?—A. Did I say that, sir?

Q. That the men had that impression?—A. Oh, yes; the men had that impression. There are two or three men of my company who told me about the first part of the shooting, and they gave those remarks that were supposed to have been made outside of the wall; the language I don't think I should repeat here.

Q. We might just as well have it.—A. "Come out, you black sons of bitches."

Q. That is, shouting?—A. Yes, sir.

Q. And shooting toward the barracks?—A. Yes, sir.

Q. Did that strike you as a little singular, that men would stand out there and shout that way, and shoot and not hit the barracks?—A. Well, I don't know, Senator; it did some way strike me as a little singular.

Q. Did you believe it?—A. I did not have any reason not to believe it.

Q. I ask you, did you believe it?—A. Yes, sir.

Q. And still believe it?—A. Yes, sir.

Q. That men stood out there—did you hear anything else?—A. No, sir.

Q. Did you ask them how many men there were apparently doing that shooting?—A. I did, but I don't recollect that they gave me any number. They could not say.

Q. That was a very important matter, was it not, in the investigation, how many men?—A. You mean did I ask how many men?

Q. That were attacking the fort.—A. They could not tell, sir; they could not see.

Q. I am asking you if you asked them how many.—A. I did ask them how many, but they could not see. They could not tell anything about it.

Q. An old soldier could not tell anything about the number of an attacking party from the shooting?—A. No, sir.

Q. Whether it was one or a hundred?—A. Well, he could tell if it was one or a hundred, certainly, but he could not tell whether it was 10 or 20.

Q. Could he tell whether it was between 10 and 20?—A. No, sir; he could not.

Q. Whether it was between 10 and 50?—A. Possibly he could.

Q. Do you as a soldier say that he could not?—A. I do; and it has been tried.

Q. Where was it tried?—A. At Fort McIntosh.

Q. How?—A. With rifles.

Q. What was the occasion of the trial?—A. A mere experiment; that was all.

Q. What for?—A. For the purpose of ascertaining whether anyone could tell.

Q. When was that?—A. I could not tell you when it was, sir; I don't know.

Q. What year?—A. 1907; this year, sir.

Q. Who had that experiment made?—A. I don't know, sir. I don't know anything about it except that it was made.

Q. Were you there?—A. I was in the post, but not present.

Q. Who did you understand had that experiment made?—A. As I said, Senator, I don't know who had it made.

Q. You were told, weren't you?—A. No, sir; I was not told; but I can tell you that I understand it was a voluntary experiment on the part of one of the officers of the regiment.

Q. Did you go out to listen?—A. No, sir; I did not.

Q. How do you know, then, that they could not tell whether it was 10 or 50?—A. Because they told me afterwards.

Q. What officer told you that?—A. Lieutenant Harbold.

Q. Was Major Penrose there?—A. No, sir; he was not there. I don't believe that he had anything to do with it, Senator.

Q. Do you remember when Mayor Combe came up to the fort that night?—A. Yes, sir; I saw him when I reported to Major Penrose.

Q. Mayor Combe was there then?—A. Yes, sir.

Q. You heard the conversation?—A. No, sir. The only conversation that I can tell about is already given in my testimony—that when I reported to Major Penrose he said, "My God, boy, where have you been?" and I told him, and then he told me to take command of my company, and I left immediately afterwards. I did not listen to any conversation between Mayor Combe and Major Penrose. The other officers were standing off at a distance from him, and I passed over and relieved Lieutenant Grier and took command of my own company.

Q. Do you know what Mayor Combe's purpose was there that night?—A. Well, he came up to tell the major—this is only hearsay—that he came up to tell the major that the men had been down there and shot up the town.

Q. When did you learn that?—A. Oh, within a half an hour afterwards, sir—some time shortly after; I don't recollect the time.

Q. Who was with Mayor Combe?—A. Mayor Combe and the major were standing alone.

Q. Did you see anybody else there of the citizens?—A. No, sir.

Q. You knew Mayor Combe?—A. Yes, sir; I have known him four or five years.

Q. He was the attending physician there at the fort, was he not?—A. Yes, sir.

Q. He had been in the Army?—A. Yes, sir.

Q. You knew him well?—A. I knew him quite well; yes, sir.

Q. A very reliable man?—A. I think he is absolutely so; yes, sir; an excellent man.

Q. And you have reason to believe he was friendly to the soldiers?—A. I am sure of it; yes, sir.

Q. Now, Captain, when the mayor of the city came up there a little past midnight after this shooting, as you learned, within a few minutes, and said that it was men of that command that had shot up the town, did that make any impression upon you?—A. Why certainly it did; yes, sir. I had every reason to believe him at that time.

Q. Well, had not your men reported to you that there had been shooting toward the fort?—A. Yes, sir.

Q. But you had every reason to believe Mayor Combe was telling

the truth?—A. I thought so; yes, sir. I believe so yet, that he believed it exactly.

Q. Now, that night at your barracks you went to bed in your usual place?—A. I do not understand your question.

Q. You went to bed at your accustomed place that night?—A. Yes, sir.

Q. Can you explain why it was that a soldier could not find you?—A. I do not think he came in the house. If he did, there is no reason why he should not have found me.

Q. Your sword and belt were on the outside of your room?—A. Exactly where I have always placed them when I have been officer of the day.

Q. I do not ask you where they always were. Where were they that night?—A. Right against the doorsill, sir.

Q. Outside?—A. Yes, sir; and the doors wide open.

Q. Did you have a light in there?—A. Yes, sir.

Q. So if a soldier had come there looking for you where you usually slept, he could have seen you readily?—A. There is no question why he should not. He could have; yes, sir.

Q. You went down town yourself that night?—A. Yes, sir.

Q. What time did you go downtown?—A. It must have been about 8 o'clock, Senator.

Q. Didn't you go downtown about 10 o'clock?—A. No, sir; I did not. I never have testified to that, sir.

Q. Well, I am not asking you that.—A. No, sir; I did not. I was in town about 10 o'clock that morning, but not that night.

Q. What was your purpose in going downtown?—A. To see if the patrols had carried out their orders; to see if I could find any stray men around.

Q. Did you take anybody with you?—A. No, sir; I went alone.

Q. You felt perfectly safe in going down?—A. Absolutely; yes, sir.

Q. You had on your uniform?—A. I wore my uniform and my side arms. No revolver, but just my saber.

By Senator OVERMAN:

Q. Are you a little deaf?—A. Yes, sir. That shot affected my hearing.

Q. You were not deaf on this night of the 14th?—A. Not particularly so; no, sir. I am a very sound sleeper, though.

By Senator WARNER:

Q. When you went downtown where did you go to on the night of the 13th?—A. I went down Elizabeth street about five blocks. I think it was one block beyond the post-office. Then I turned two or three blocks to the right. Then I went down a street that runs parallel to Elizabeth street, and shortly after I turned I came to the city market. That was the first time I had ever seen the place. It is not indicated on the map here. Over on the west side of the square, I think, was a saloon owned by a man named Crixell. I went to the door of that saloon and asked Crixell if he had seen any of the men. A man I supposed to be Mr. Crixell—I never had met him before, there were three brothers of them—he said that he had not seen any

soldiers, but he had seen a patrol go by a few minutes before. He had a side room there. I asked him what that room was, and he said that was a room that his brother had had fitted up for colored soldiers. I asked him if he had had any trouble with any of the soldiers during pay day, and he said no, that they had behaved very well. From there I went across the street. There were three places there that I took to be restaurants. I looked over the blind door that they had, the short door, to see if there were any men in there; did not enter any of them and saw no men. I then went on and continued down that street until I came to the street that runs along the alley, and I turned around by the post-office there, and went in the main gate—I do not mean the post-office, but the telegraph office—and went in the main gate.

Q. It was Crixell's saloon, was it?—A. Yes, sir; one of his. He had two there, sir.

Q. I do not know whether this is correct or not, but it is the evidence taken before the court-martial, at page 964:

Q. Was Crixell's saloon on Elizabeth street one of the places that you stated you entered on the morning, I think, of August 13?—A. At about ten minutes of 10; yes, sir.

A. That is correct; yes, sir.

Q. You were down there at 10 o'clock, then?—A. You said 10 o'clock that night, sir. I say morning.

Q. Oh, that was morning, was it?—A. Oh, yes, sir; not that night. I was not near his place that night; that is, the main place.

Q. It was the morning of the 13th you went down?—A. Yes, sir.

By Senator OVERMAN:

Q. What were you doing the morning of the 13th?—A. I went to the bank, and to the printers, and went into Crixell's and got a—

Q. That was the morning before the firing?—A. The day before the firing. It was before I went on guard, because the officer of the day is not allowed to leave the garrison, except he is on duty.

By Senator WARNER:

Q. Do you mean the morning of the 13th or the morning of the 14th?—A. The 13th.

By Senator SCOTT:

Q. Then it was 10 o'clock on the 13th that you were downtown?—A. Yes, sir; it was Monday morning before I went on guard.

By Senator FORAKER:

Q. Before you went on guard?—A. Yes, sir.

By Senator OVERMAN:

Q. You were not down there on the 14th at all?—A. In town? No, sir; I did not enter the town at all, except on that street, when I went out and got the shells; that was all.

Q. When you got those shells did you go any farther down the alley looking for shells?—A. I did not go into the town at all.

Q. If you saw some shells there, some indication of firing, why didn't you go down the alley looking for more shells?—A. There were a lot of people down there. I did not go down that way at all.

By Senator WARNER:

Q. Now, Captain, you say, with reference to this shooting, it is possible that a few shots were fired from the barracks, as I understood your testimony?—A. Yes, sir; I said that.

Q. What do you mean by that?—A. I mean that the men, probably in their excitement, went out on the porch and fired their rifles.

Q. That is, when these men were out there shouting, as you have said, for them to come out?—A. Well, I think it would be a little later than that, a little after that.

Q. A little after that?—A. Because it would take some time for the men to get out of bed, take some time for them to get their rifles out.

Q. Notwithstanding the men were so frightened when they were down back of the wall that no one would put his head above the wall?—A. They were very much frightened. That was my company, the only one I can speak of.

Q. I am speaking of your company.—A. Yes, sir.

Q. Do you think it would have been possible for any of the members of your company to have fired from the barracks?—A. No, sir; I do not, because they were not armed with that ammunition at all, and my other ammunition was locked up.

Q. Any other reason you can give?—A. Why they should have fired?

Q. Yes.—A. No, I do not think of any.

Q. Right there, Captain, why was it that your company was given the reduced range ammunition while the other companies had the regular steel-jacketed ammunition?—A. That reduced ammunition is the ammunition for the garrison, and I have always taken particular pains to carry out the orders that I am given by the War Department, and I took in all the other ammunition and gave them only the ammunition that they were required to have in the garrison and supposed to have in their possession.

Q. You knew the other companies still retained their other ammunition?—A. I did not.

Q. You have found it out since?—A. I have found it out since; yes, sir.

Q. And your company was the only company that had the reduced-range ammunition?—A. Yes, sir; I take that to be so.

Q. You said when these orders were given that you served notice that you would hunt through the lockers?—A. Yes, sir.

Q. For any surplus ammunition?—A. Yes, sir.

Q. When you were issued the reduced-range ammunition you got 10 rounds?—A. Yes, sir.

Q. You checked up the ammunition that you turned in, did you?—A. Yes, sir.

Q. The steel-jacketed ammunition?—A. I checked it up to the best of my ability; yes, sir.

Q. Did it check up?—A. Yes, sir; every man had 20 rounds.

Q. Then you knew that that was all turned in?—A. Yes, sir; and I had it put in an ammunition box.

Q. Why was it, then, you should have searched the lockers?—A. For any extra ammunition they might have.

Q. How would they have extra ammunition, Captain?—A. Soldiers accumulate that sometimes on the target range.

Q. How?—A. Well, in a skirmish run each man is given 20 rounds of ammunition. Sometimes he only fires 19, and if he only fires 19, if he is 1 short, he gets a penalty for it, and they will hide it, to the extent of sticking it in their mouths. Every time a skirmish run is completed the officers are required to go down the line and search the men, and I can not tell you how they do it exactly, but they have ways of accumulating ammunition that I can not explain, and I do not believe any officer can.

Q. But you know they do accumulate it?—A. Oh, they do; yes, sir; undoubtedly. It is a hard thing to check on.

Q. And by way of secreting it they put it in their mouths?—A. I have heard of cases of that kind; yes, sir. I never found any that way, but I have heard of them.

Q. Now, Captain, when you served notice upon your command that you would search their lockers, didn't you further say you would search the bags that they hung up for clothing and such things?—

A. Do you mean their barrack bags?

Q. Their barrack bags.—A. Yes, sir.

Q. You told them that?—A. Yes, sir.

Q. You served notice on them, therefore, that if any was found in their lockers or barrack bags you would get it and take it up?—A. Any in their possession; yes, sir.

Q. Then, if they wanted to secrete it, they put it somewhere else?—A. Yes, sir; they could. As nearly as I can remember, Senator, I did this on a Saturday morning, after I had gone through all of their things. I had to make an inspection of their equipment and everything, and then after it was over I notified them that I was going to make frequent inspections of that kind through the week, to find out whether they had any more.

Q. Do you know of any such inspection being made in any other of the companies?—A. I could not say anything about that, sir; no, sir; I don't know.

Q. How much ammunition did you find that morning by your inspection of the lockers?—A. I did not find any.

Q. If there had been any accumulated, it would have been gotten out of the way, I suppose?—A. I would have taken it in.

Q. Just a question about this firing on the skirmish line and this accumulating of ammunition.—A. Do you want me to explain the whole thing—how it is done?

Q. Yes, Captain.—A. Well, the company is formed in line, and the men are given their targets, and then ammunition is issued, 20 rounds to every man. Each man is given 4 clips. The line, I think, had 40 targets on it. Usually there is one officer to go down that line, and it is almost a physical impossibility for him to watch every shot, and occasionally it happens that a man does not fire all the rounds at a prescribed range, and there is some ammunition left over. If it is found in the possession of a man, he is penalized.

Q. All he is penalized is to pay for the cartridge, isn't it, unless they think he did it intentionally?—A. He is penalized on his score.

Q. But that is all?—A. Yes, sir.

Q. That is, his score is reduced 10 points?—A. Yes, sir.

By the CHAIRMAN:

Q. That is, his shooting score?—A. Yes, sir.

By Senator WARNER:

Q. His score made in the shooting at that range?—A. Yes, sir.

Q. It reduces his score that amount?—A. Yes, sir.

Q. Now, Captain, you had a call of the roll after you took charge of the company, didn't you?—A. Yes, sir.

Q. The sergeant started to call the roll?—A. Yes, sir.

Q. But he made a failure of it, didn't he?—A. Yes, sir.

Q. Why?—A. Well, he was very much excited.

Q. Who was that?—A. Sergeant Harley.

Q. Who was it you understood afterwards came over to call you?—A. Well, I have been told since he was sent over there.

Q. Who was that?—A. Sergeant-Major Taliaferro was one, and Corporal Madison of my company, and one member of the guard. The member of the guard is the one that wakened me.

Q. You heard that Sergeant-Major Taliaferro was sent to waken you?—A. Yes, sir.

Q. Did he ever tell you so?—A. No, sir.

Q. Did you ever ask him?—A. No, sir; I don't recall that I ever did, Senator. It is a long time since. I don't believe I ever did.

Q. Did you ever ask Corporal Madison?—A. No, sir; I did not. I have not seen Corporal Madison in some time. He left us within a week.

Q. But you had a week there?—A. I did not ask him, sir.

Q. Was it not a pretty serious matter, you being officer of the day, and if you were supposed to be attacked, that your sergeant-major should come to call you, be sent to call you, and you having a light in your room and were in your usual place lying upon the bed, that he should not have awakened you?—A. Well, Senator, I did not know that he came to waken me until after I got to Fort Reno. It must have been about two months ago was the first I ever heard that he had been sent over there. My counsel has talked with him since. That is what I am being tried for. My counsel has talked with him since, and we know exactly where he went.

Q. Did Corporal Madison wake you?—A. No, sir; he did not. I did not see Corporal Madison.

Q. When did you learn that Corporal Madison had been sent over to waken you?—A. Within two or three days afterwards, I think, sir. It may have been longer; I could not tell exactly. I know the major told me that he had sent two or three men there, but, as I recollect it, I did not get their names at the time, and I did not see Corporal Madison for a few days after this occasion.

Q. Well, did you have a talk with Corporal Madison as to why it was he did not waken you?—A. No, sir; I did not.

Q. When you learned it a few days after the incident, didn't you think it was very strange that a corporal, a noncommissioned officer of your company, should not have wakened you?—A. Well, I think it very strange, but I do not think he got to the house, Senator. I modify my statement of a few moments ago, that I thought it might have been a few days after that I heard it; it may have been later. This was a long time ago, and I do not recollect exactly when I heard that Corporal Madison was there. It may have been two or three days after this that Corporal Madison was put in confinement, and I did not see him again until we arrived at San Antonio.

I did see him as officer of the day; that was all; but he was a prisoner in the guardhouse.

By Senator FORAKER:

Q. He was one of the 12 men?

Senator WARNER. Yes; that is in evidence; there is no controversy about that, I think.

Q. When you were at the wall, how long after you got there was it that you called the roll?—A. I think it must have been within a few minutes, sir; probably five minutes.

Q. What was the purpose of that roll call?—A. The major gave us orders to verify our companies again; each company commander was directed to verify his company again.

Q. Was there considerable confusion at that time?—A. No, sir; there was not. It was very quiet then.

Q. But you were not satisfied when the men answered to their names, were you?—A. I knew most of their voices, Senator.

Q. I asked you a plain question. You were not satisfied when the men answered to their names that that was correct?—A. I was satisfied in one way, but at the same time I wanted to be sure and positive, so I went down and counted the men.

Q. And this was what time, about 2 o'clock?—A. I expect it was very close to 2 o'clock; yes, sir.

Q. There would have been no trouble for parties to have gotten over the wall and joined your company while they were there?—A. Yes, sir; there would have been then; I could have seen anybody come in. I was behind them at that time.

Q. At what time?—A. At 2 o'clock, when I called the roll.

Q. Well, but just before the calling of the roll?—A. At 2 o'clock?

Q. Just before the calling of the roll.—A. Well, when I called the roll I did not think it would have been possible for anybody to have gotten in.

Q. Was there light so you could have seen?—A. I was under a street lamp; yes, sir; and then, besides that, I had a lantern.

Q. You were under a street lamp?—A. The garrison lamp; yes, sir.

Q. The garrison lamp was at the gate, was it not?—A. Not the only ones. They had one in front of my barracks.

Q. In front of C barracks?—A. Yes, sir.

Q. They had one in front of C barracks. Did they have a garrison light in the rear of C barracks?—A. No, sir; no light there.

Q. You called the roll?—A. In front of the barracks, under the lamp.

Q. But when you were out by the wall parties could have joined your company and gotten over the wall?—A. As soon as I took command of my company they were formed right away and marched away over there; marched around in front, where I verified them again, and then I immediately arranged them around there and put them in line, and halted them right at the gate, and put them in line as sentinels along the whole business.

Q. That was when you were on guard duty. I ask you when you were deployed as skirmishers, when you took command of the company along the wall, parties could have joined the company, could they not?—A. They could not, unless some sentinel did not carry out his orders; that would be the only way they could do it. It would

have been impossible for anybody to have gotten inside that inclosure, past this line of sentinels, unless the sentinels let them in.

Q. I am asking you, before your company was put on guard, before the Cossack guard was established, when they were there at the wall?—A. No, sir; I can explain this a little more clearly; that the moment I joined my company I had it assembled. I really could not tell you the formation they were in along the wall previous to the time that I took command. Mr. Grier had command of it at that time. The first command I gave after joining them was, "C Company, assemble!" and I had the first sergeant assemble them. I think that that was almost in rear of my own barracks. What formation they were in I could not see. You could not see more than 20 feet.

Q. You could not see more than 20 feet?—A. No, sir; I do not think you could see that far that night. It was very dark.

Q. That is, when you were where that you are speaking of now?—A. I mean where there were no lights.

Q. The next day you learned of ammunition being found down in the town, didn't you?—A. Yes, sir.

Q. Government ammunition?—A. I heard it was not ammunition, but shells.

Q. I mean shells.—A. Yes, sir; I heard there were some shells found, and I think they said some bandoliers. They may have said only one, but I think they said "some."

Q. And the bandolier is issued only with the Springfield cartridge?—A. That is the only ammunition I have seen it used with; yes, sir; it holds 60 rounds.

Q. Did you see any of those shells that were found in town?—A. No, sir; I never did.

Q. Did you ever ask to?—A. No, sir; I never was permitted out of the post.

Q. Well, I know; but did not Major Penrose or anybody make an investigation?—A. That I could not say, sir. I was not in the adjutant's office, and I do not know exactly what Major Penrose did, because it was not my business to, sir.

Q. You found some shells yourself?—A. Yes, sir.

Q. Of what kind were they?—A. They were the Springfield shell, I think, sir. I did not look at the end of them.

Q. You have no doubt of that, have you?—A. I feel satisfied in my own mind that they were Springfield shells; yes, sir. I have seen some shells, though, that looked very similar; just about the same kind of a shell, of another make.

Q. They were Springfield clips that you found there?—A. Yes, sir; the ones we used.

Q. So, as far as you could judge, they were shells and clips of the ammunition of the Springfield rifle?—A. As far as I could judge, yes, sir; I think it was.

Q. What did you do with those shells?—A. I showed them to Major Penrose first, and then took them to my quarters. He told me to keep them.

Q. What did Major Penrose say when you showed them to him?—A. He said it looked bad.

Q. What else?—A. I do not recall anything else, sir.

Q. Did you tell Major Penrose about the circumstances of your finding those shells?—A. I told him when I found them.

Q. And where you found them?—A. Yes, sir.

Q. And how they were placed?—A. Yes, sir.

Q. And all about it?—A. Yes, sir; as near as I can recollect. He stood on the inside of the wall, right along there, looking down that alley—that is as near as I can recollect.

Q. Now, Captain Macklin, you made a statement, did you not, in this case when it was being investigated by Colonel Lovering?—A. I did make a statement before him; I think it was a very brief one. He asked me mostly about my men; about the trouble that my men had had, and that they had reported to me; that was the nature of his investigation.

Q. You knew that Colonel Lovering was trying to find out who it was did the shooting, whether it was the soldiers or the citizens, did you not?—A. Yes, sir.

Q. That was your understanding?—A. Yes, sir.

Q. And you were anxious, were you not, about giving him all the assistance you could?—A. Yes, sir; in every way.

Q. The fact is, Captain, that as an officer you were attached to your command, were you not?—A. I was very fond of them, Senator.

Q. And you were anxious that whatever there might be that would show that they were not guilty of this charge should be developed, were you not?—A. Yes, sir; I have worked to that end for the last eight months.

Q. And are still working at it?—A. Yes, sir.

Q. In your statement I find nothing about these shells—that is, in your statement to Colonel Lovering.—A. In that examination, Senator, I was not asked to make a statement. I was asked questions. They wanted mere facts. In going into an explanation of the details of things I was told that they did not want that, that facts were all they wanted.

Q. Was not that a fact, your finding those shells?—A. Oh, yes; but he told me to confine myself to the answers to the questions that he asked me.

Q. Did you attempt ever to tell him of those shells?—A. I do not recall that I did; I do not know, sir.

Q. Do you mean to say that Colonel Lovering prevented you from giving him any information?—A. No, sir; I don't want to imply that at all, sir; not in the least.

Q. The fact is, he talked with all your officers, aside from this examination, did he not?—A. Yes, sir; we had every facility to tell him anything we could, and we made an effort to tell him everything we could.

Q. Did you, in any conversation with Colonel Lovering, ever tell him about these shells?—A. I could not tell you, Senator; I don't know. I have talked about it so much and with so many different people that I really could not tell you. That was a long time ago.

Q. What did you do with those shells?—A. I put them in my desk at Brownsville, and I left them there. We went away in a hurry, and I forgot them. They were in a drawer. We tried to find them since, but could not do it; don't know where the desk is. It was a quartermaster's desk that happened to be in the house. I

showed these same shells to Mayor Combe afterwards—a number of people have seen them—and I then threw them in a drawer of the desk. I did not realize that this was all coming up, and that they would be of any particular value afterwards.

Q. You knew as an officer, yourself, that there would necessarily be an investigation into that shooting, did you not?—A. I did not; I did not expect it, sir.

Q. Did not expect it?—A. Not after Major Blocksom finished and exonerated the officers; I thought that would end it.

Q. When Colonel Lovering was there, a few days afterwards, you knew it then?—A. I did not realize that it was going to continue any further than that.

Q. Where was the examination of Colonel Lovering?—A. At Fort Reno, sir.

Q. Who made the examination there, at Brownsville?—A. Major Blocksom.

Q. How many days was that after the shooting?—A. I really could not tell you, sir; but I think it was a couple of days. It was within two or three days afterwards.

Q. Immediately afterwards?—A. Yes, sir.

Q. Didn't Major Blocksom offer every inducement to everybody to tell everything they knew?—A. Oh, yes; and we gave it to him.

Q. And you gave it to him?—A. Gave him everything we possibly could.

Q. Did you tell Major Bloxsom about these shells?—A. Yes, sir; I do not think I told him about the position. I told him I found the shells there, and Major Penrose told him I found the shells there.

Q. Why didn't you turn the shells over to him?—A. He did not ask for them; did not call for them. There was not any secrecy about them, sir.

Q. When questioning your men about this shooting they told you the general direction of the shooting, I believe?—A. Yes, sir.

Q. Didn't they tell you that the shooting first commenced back of Company B's quarters, apparently, and then went up into the town?—A. No; I do not think they did. They told me it commenced back of B Company, but I don't remember that they said it went from there in town. They said they heard shooting all over the town, because I have heard since, and Mayor Combe told me, that there was indiscriminate shooting by people putting revolvers out of the windows and just turning them loose.

Q. That was after the high-power guns had ceased?—A. I do not know when it was.

Q. Isn't that what Mayor Combe told you, that the frightened citizens shot some revolvers, and did not mean that they were firing at anybody in particular?—A. There was just indiscriminate shooting all around the town; how soon afterward, I do not know.

Q. In investigating with your noncommissioned officers, didn't you seek to find out where they heard this shooting?—A. Yes, sir; I tried to.

Q. Did they say that all of the shooting was from out of the mouth of the alley?—A. No; some of them said they heard shooting up this other way—up this other street. In fact, the men testified that they saw flashes near the mouth of the alley, or in the alley.

Q. I am asking you of your conversation with them, finding out for yourself. Their affidavits will show what they testified to?—A. Yes, sir.

Q. Did you try to find out where this shooting was and how it continued?—A. Yes, sir.

Q. What did they tell you?—A. I am just trying to explain to you, Senator, that they said some of this shooting was off in the other part of the town, that a good deal of it was down here toward the alley, and then they heard general shooting all over the town. They did not confine themselves to any special locality.

Q. Did they say they heard any in the direction of the Cowen house?—A. No, sir; they did not.

Q. Did you ask whether it continued up that alley or not?—A. No, sir; I did not.

Q. Now, Captain, when you found those shells at the mouth of the alley, between Elizabeth and Washington streets, you did not look any further for shells?—A. I did not go up that street at all, sir.

Q. You did not look any further for shells?—A. No; not any further at all, sir; I had already gone along the wall, on the inside, up that far, and I covered the outside of the wall, as far as that alley.

Q. But you did not go outside of the garrison road?—A. No, sir.

By Senator OVERMAN :

Q. Did you go out any farther than the garrison road?—A. By the garrison road, do you mean that alley?

Q. No; I mean the garrison road, right along by the wall.—A. I went in there just a little, toward the alley.

Q. Why didn't you continue up the road?—A. I found those, and I was satisfied.

Q. Satisfied of what?—A. I was satisfied I had found the shells—what I was looking for.

Q. You were looking for shells, and you found shells that, in your opinion, had been shot out of the Springfield rifle?—A. I thought so at that time; yes, sir.

Q. And that satisfied you; that was as far as you wanted to go?—A. Yes, sir.

Q. You were satisfied, then, that your men had done it?—A. I did not say that.

Q. Not your men, but the soldiers of the battalion?—A. Well, it looked that way; yes, sir.

Q. Then you have satisfied yourself, by reading this testimony before the court-martial, that your men did not do it?—A. Yes, sir.

Q. The court-martial has found that your men did it upon that same testimony, isn't that so?—A. I can not give the finding of the court-martial, sir.

Q. I say, the same testimony that you have read, which has convinced you that your men did not do it, convinced the court-martial that they did do it—isn't that true?—A. I am told that that is the way it is.

Q. Isn't that true—you heard my question?—A. Yes, sir.

Senator OVERMAN. That is all.

By Senator FORAKER:

Q. You have heard a good deal of testimony besides that?—A. Yes, sir.

By Senator PETTUS:

Q. How many shells did you find?—A. I think I testified that I found seven, Senator.

By Senator FORAKER:

Q. You have heard a good deal of testimony besides that which was given before the court-martial, have you?—A. Yes, sir; I have read nearly everything that has come out in this matter.

Q. The men were not on trial before the court-martial, were they?—A. No, sir; they were not.

Q. They were not represented before the court-martial, were they?—A. No, sir; they were not.

Q. Yet we are told there was a finding about it.—A. Yes, sir.

By Senator OVERMAN:

Q. What do you mean by saying that men who were on trial were not represented there?—A. The Senator asked me if the men were represented. By the men, I presume he means the men of the Twenty-fifth Infantry, not the officers.

By Senator FORAKER:

Q. The soldiers?—A. The soldiers.

By Senator OVERMAN:

Q. Major Penrose had counsel that went into it fully on cross-examination?—A. Yes, sir.

Q. Was there not a thorough examination on the part of those who represented Major Penrose?—A. From all that I have read, yes, sir.

Q. They were pretty skillful men, too, were they not?

By Senator FORAKER:

Q. There was only cross-examination of such witnesses as were produced for the prosecution; that was all, wasn't it?—A. Yes, sir; I believe so.

By Senator OVERMAN:

Q. He had his own witnesses there?—A. Yes, sir; certainly.

By Senator FORAKER:

Q. They were produced for the defense of Major Penrose?—A. Yes, sir.

Q. And very few soldiers were there as witnesses, were they?—A. A very few of them, and none were allowed in the room. All I can tell you is what I have read of the proceedings since.

By Senator OVERMAN:

Q. They separated all the witnesses?—A. Yes; I read the proceedings day by day. I was interested, naturally, because the charges against me had the same bearing.

Q. It was not an unusual proceeding? They just separated all the witnesses; only heard one witness at a time?—A. Yes, sir; that is all.

Q. That is not unusual, is it?—A. Oh, no.

By Senator WARNER:

Q. That is the way we have been doing here, is it not?—A. Yes, sir. It is the way they do everywhere, in every court that I have heard of.

Q. There was nothing unusual?—A. Nothing unusual about it; no, sir.

By Senator WARNER:

Q. Now, to get back to these general questions that you have been asked. You spoke of the testimony before the court-martial. What other testimony has changed the opinion that you may have formed after finding those shells and clips?—A. What other testimony that has been given in?

Q. Yes.—A. Well, I do not know that I can tell you any testimony; only my association, daily association, with the men from the night of August 13 to the time of their discharge, their behavior during that time, their actions and demeanor, have almost led me—have led me, rather—to believe that they were not implicated in it, or didn't know anything about it.

Q. Of your company, you mean?—A. Of my company. Of course I can not speak of anybody else's company, because I don't know anything about them. I did not come in contact with them except on guard duty.

Q. But, Captain—it seems to be the thing to ask for opinions here—from these shells being found, and what you heard of other shells and ammunition, the shells and balls, and so forth, that were found, did you form an opinion as to whether or not it was some of the battalion who did the shooting?—A. You mean at the time?

Q. Yes.—A. At the time I thought it was some of the men of the battalion; yes, sir. That next morning I felt satisfied it was some men of the battalion.

Q. And you remained satisfied how long?—A. I can't tell you how long, but there are a good many things that came up in the daily life of the men—my questioning them and being in close contact with them and seeing their discharge, and everything—that almost satisfied me that they did not know anything about it or had nothing to do with it.

Q. Just because they did not tell?—A. Well perhaps that did have something to do with it.

Q. You knew of Major Penrose's report, did you not, that he made?—A. I have read it since; I did not read it at the time.

Q. But very soon after it was made?—A. You mean his original report?

Q. Yes, sir.—A. I think the first time I read that was after that pamphlet came out in printed form. I am not quite certain of that.

Q. You mean this Senate Document No. 155, I suppose?—A. Yes, sir.

Q. Did you have any talk with Mayor Combe about this?—A. Yes, sir; I talked with him several times, I think, about it.

Q. Where?—A. The last time, or one of the times, anyway, was in my house.

Q. Well, it was down at Fort Brown?—A. Yes, sir.

Q. He went to detailing to you the circumstances there, did he not?—A. Yes, sir; we had a general conversation about it.

Q. And you spoke of the character of the shooting that night?—A. Yes, sir.

Q. Did that lead to the strengthening of the opinion in you that some men of the battalion had done the shooting up of the town?—A. I believed it at that time, Senator.

Q. You did at that time?—A. I believed it; yes, sir.

Q. You believed it all the time you were at Brownsville?—A. Yes, sir; I thought so.

Q. And you believed it after you got to Fort Reno?—A. I did for a while; yes, sir.

Q. How long after you got to Fort Reno?—A. I don't know; perhaps three or four weeks.

Q. What made you change or modify your opinion at all in three or four weeks after you got to Fort Reno?—A. As I have said before, it was the conduct of the men. They were under a very great strain, held in more severely than any other soldiers I have ever seen, and they held up under it.

Q. Yes.—A. And there were old soldiers in there, and they knew that everything they had in life was at stake, as far as their army career was concerned, and I felt satisfied, the way most of the older ones worked, that they were honestly and earnestly trying to find out who did the shooting; and I finally came to the conclusion, as long as they didn't tell and as long as they behaved themselves so well, that they did not know. That was my belief, that they did not know.

Q. Let me see, Captain. Do I understand from that that you came to the conclusion, then, that these older soldiers who were interested so much knew nothing of the shooting, or do you mean to say that you came to the conclusion that none of the members of the battalion did?—A. I mean all the members. From the moment of our arrival at Fort Brown these men were confined to the limits of the garrison by order of the War Department, and during our time at Fort Reno, or up to the time of their discharge, there were no members of that battalion allowed to leave the limits of the garrison, which was defined by a fence right around in the rear of the quarters; and also during that time I think only five men broke that arrest. They were worked, we might say, day and night, and from their manner the soldiers, the older ones and the men of the most service, were trying hard to get at these other men, and I believe they would have given them up in a minute if they had known them.

Q. Captain, as to these five men who broke their arrest; something was said about five men yesterday by Lieutenant Grier; what was done with those five men?—A. We tried them by court-martial and sentenced them to a year and a half in the penitentiary.

Q. What company did they belong to?—A. I can not tell you the numbers, but they belonged to D and B Companies; I do not know how many of each company.

Q. What do you mean by "breaking their arrest?"—A. Well, as I explained a minute ago, there was a fence that ran around the post and they were confined to the limits of that post, and each soldier of the battalion was given a personal order or a direct order by his company commander that they were confined to the limits of the garrison until further orders, and that any man that broke this arrest or that went outside of the limits would be tried for disobedience of orders under the twenty-first article of war.

Q. And these men went outside?—A. Yes, sir; they were found downtown; yes, sir—at different times; not all in one bunch, sir; not all in one party.

Q. They have been sentenced and sent to the penitentiary?—A. They were sentenced by the court-martial, and as nearly as I can recollect every man got a year and a half; but General McCaskey, I believe, modified it to six months and a dishonorable discharge. I believe some of them are still at Fort Reno.

Q. Those men had been good soldiers up to that time, had they?—A. One or two of them I knew. I did not know all of them, but one or two of the men were very good men.

Q. So far as you knew, they were good men?—A. Yes, sir.

Q. So far as you knew, they were just as good as Newton?—A. I don't know about that.

Q. Or Reid?—A. I don't know about that, because I can not tell you about their daily life. I only know them as I saw them casually—the men of the other companies. My own men I get to know.

Q. And Newton, you say, was a very amiable and well-behaved man?—A. Yes, sir; he was.

Q. Any one who said that he was drinking and quarrelsome would make a mistake?—A. I think they would. I never had any trouble with him. I had him in my office for a year and never had any trouble with him—I think it was a year he was there; it may have been a little longer.

Q. The soldiers felt down there that they were being imposed upon, did they?—A. Well, Adair and Newton and Reid and Lipscomb did. I do not recollect that I ever had any complaints from anyone else.

Q. So as to refresh your memory, Captain, I will read, from page 543 of the court-martial proceedings of Major Penrose, the following:

Q. I ask you, as a military man, whether these various incidents would not naturally have created a feeling of resentment by the soldiers against the customs officers?—A. I should think so. They felt they were being imposed upon.

You limit that to the customs officers, do you?—A. They were the only ones they had any trouble with, sir.

Q. They had no trouble whatever with any Mexicans, as you say they and the Mexicans fraternized together and seemed to be very friendly?—A. Yes, sir; I never heard of any trouble outside of these instances, and they were all with the customs officers.

Q. You never heard of any trouble with the police?—A. I never did; no, sir.

Q. You knew of the fact of separate bars being established?—A. Yes, sir.

Q. And of this man Allison starting a saloon?—A. I did not know that he was in it until afterwards. I knew there was a soldiers' saloon. The name I did not know.

Q. You were asked something about cleaning a gun. You would not undertake to say that your men did not have opportunities of cleaning their guns?—A. Oh, no, sir; I would not say that.

Q. What?—A. I would not say so.

Q. No. What opportunities would they have, Captain?—A. Well, a man on post on a dark night might run his brush wiper through the gun, but I do not think it would clean it out absolutely.

Q. Well, there is a place there for putting in a rag, is there not?—A. Yes, sir; he could unscrew this little brush and put a rag in there, if he had a rag. He could tear a piece off his shirt.

Q. There would be no trouble in doing that?—A. No, sir; I do not think there would.

Q. Now, you said something about the powder getting in the chamber, as I think you called it, or what else did you call it?—A. I may have said "magazine," and then I think I said "chamber."

Q. It is my recollection that you said "chamber." Now, Captain, when a gun is discharged is it not a fact that there is only one way that powder can get back into the chamber, and that is when the striker punctures the cap—the percussion cap—that is, the firing pin?—A. I think the Senator misunderstood my answer to that other question.

Q. I am asking you this question, now.—A. Yes, sir.

Q. That is the only way that it can get back in there?—A. I do not think it can get back in the chamber at all, Senator.

Q. The percussion part of the cartridge is in three pieces?—A. Yes, sir.

Q. The inner part you call the anvil?—A. Yes, sir.

Q. And then comes the fulminating powder?—A. Yes, sir.

Q. And outside of that is the copper piece, on the outside?—A. Yes, sir.

Q. And the striking pin striking the copper drives the fulminating powder up against the anvil, and then through a small aperture the spark is communicated to the powder in the shell?—A. Yes, sir. The firing pin does not usually make a hole in the cap.

Q. That is, it does not puncture it?—A. Yes, sir; that is very rare.

Q. And unless it does puncture it, no powder can get back into the chamber?—A. No, sir.

Q. That is correct, is it not?—A. Yes, sir.

Q. So that in order to clean a gun so as to remove powder stains, all that is necessary is to clean the bore of the gun?—A. No, sir.

Q. What do you say?—A. No, sir; we have to clean the breech, to clean out the breech.

Q. What do you mean by the breech?—A. I mean that part down in there where the clip goes in.

Q. How can powder possibly get back there?—A. Well, sir; it drops down off of the brush wiper, or the rag. I mean fragments off of the brush or the rag. I do not mean any residue thrown back when the gun is fired.

Q. You do not mean that it gets there from the discharge?—A. Not at all, no sir; but from cleaning the gun.

Q. Wiping the gun?—A. Yes, sir; it naturally drops down, you know. Even if you take a rag, frequently little particles will drop off of the rag and drop in there.

Q. Now, we understand each other. You do not mean that it comes from the discharge?—A. No, sir; I do not mean to say that, at all.

By Senator PETTUS:

Q. Could it not be cleaned from the breech as well as from the muzzle?—A. Yes, sir; it can be cleaned either way.

Q. Then there would not be this dropping?—A. No, sir. You could shove a rag from the breech in and then there might not be any.

By Senator WARNER:

Q. Now, after you came around in front of the barracks with your company, what was the next thing you did?—A. I went in and inspected the gun racks, sir.

Q. Were you told by anybody how those gun racks had been broken?—A. Yes, sir.

Q. I find that on page 554 of the court-martial proceedings somebody told you that they were broken "by an accident."—A. "Accident" is a mistake. It should be "ax." That would be an error, Senator, if it is that way.

Q. Just so that you can get it, I will read this. On page 554 of the record of the court-martial, down near the bottom, it reads:

Q. Were all your gun racks in perfect condition when you looked at them that night?—A. No, sir; they were not. There were two of them that had been damaged, and I called for the noncommissioned officer in charge of quarters—the first sergeant reported to me also—and reported to me that these gun racks had been broken open by an accident.

A. That is an error, sir; a typographical error. I did not make any statement like that at all.

Q. You went and examined the rifles. How many rifles did you find in the gun racks? After you came back from the wall and got in front of your barracks, before you went on guard duty, you examined the gun racks, and how many rifles did you find in them?—

A. Yes, sir. I can account for them, I think, in another way, Senator.

Q. I would prefer if you would tell me how many guns were in the armracks?—A. I will do that. As nearly as I can recollect, it was 13. No; it was not 13. I knew; I satisfied myself at that time. But I can not do it offhand, sir. I can do it the other way.

Q. Well, Captain, you say you could do it the other way. You have a right to answer the question in your own way?—A. Yes, sir. I was accountable, Senator, for 70 rifles. There were 2 not at the garrison; that left 68. There were 13 in the storeroom; that left none in the gun racks. I think that makes it plain.

Q. There were none in the racks, then?—A. As nearly as I can recollect, there were not. I really can not tell you now. I verified and checked the rifles at that time, but I can not tell you how many there were.

Part of the testimony of the witness was read by the stenographer, as follows:

A. Yes, sir. I was accountable, Senator, for 70 rifles. There were 2 not at the garrison; that left 68. There were 13 in the storeroom; that left none in the gun racks. I think that makes it plain.

By Senator FORAKER:

Q. Thirteen and 2 make 15—that leaves 55 guns?—A. That is not correct, Senator.

Senator WARNER. I think not.

By Senator WARNER:

Q. Now, go ahead in your own way.—A. Well, I had 45 rifles in line; 2 not at the garrison; 13 in the storeroom, in boxes, and the difference was in the racks.

Senator FORAKER. What about your guard?

The WITNESS. Well, there was—

Senator WARNER. How many would that leave in the racks?

Senator SCOTT. Let the stenographer read that last.

The WITNESS. I can not tell you that offhand.

The CHAIRMAN. Let him give us the numbers, and we can figure it out.

Senator SCOTT. I was just wondering if they had 70 rifles.

Senator WARNER. That is beyond question.

(The answer of the witness was read, as follows:

A. Well, I had 45 rifles in line; 2 not at the garrison; 13 in the store-room, in boxes, and the difference was in the racks.

By Senator WARNER:

Q. How many did that leave in the racks?—A. I will have to add it up, Senator, if you will let me.

Senator WARREN. Certainly; do so.

The CHAIRMAN. He must have had some on guard.

Senator FORAKER. Four on guard.

The WITNESS. Yes, 4 on guard. [After making calculation.] The number 13 I know positively, because I had to open the gun racks for them.

Senator FORAKER. You do not mean the gun racks, but the arm chests.

The WITNESS. The arm chests, yes, sir. [After making further calculation.] That ought to have left 6 in the racks.

Senator OVERMAN. That is right.

By Senator WARNER:

Q. You had 6 in the racks?—A. Yes, sir.

Q. When was it you inspected these gun racks to find whether those guns were there?—A. The following morning, sir.

Q. At what time?—A. Well, it was immediately after reveille, just as soon as it got light.

Q. The next morning between 6 and 7 o'clock?—A. Yes, sir.

Q. Now, Captain, there can be no mistake about that, can there, that at the time you examined those rifles that remained in the gun racks it was between 6 and 7 o'clock in the morning of August 14?—

A. That is as near as I recollect; yes, sir.

Q. That is the first time you had seen those guns there?—A. Yes, sir; they had been under lock and key. That was the first time I had seen them after that.

Q. Did you examine those gun racks the next morning? I think you said you did.—A. I examined them that night and the next morning also. I examined the gun racks that night, the night of the shooting.

Q. But you did not count the guns that night?—A. No, sir.

Q. Now, when your company was formed in front of the quarters, when you came back from behind the wall—A. Yes, sir.

Q. (Continuing.) There you had roll call and counted the men and verified them?—A. Yes, sir.

Q. Then what did you do next with your company?—A. My company was put in line of skirmishers on the wall.

Q. Immediately?—A. Yes, sir; I had time enough to go in the quarters and look at those gun racks and came right out, and then I marched around there by the main gate and designated my men for each post, and went around with them and posted them.

Q. Your men did not go up in the barracks?—A. I do not recollect that they did.

Q. You were in command and you would know, would you not?—A. Yes, sir. I took Sergeant Carlisle, and Sergeant Brawner was there and one other man, I do not know who it was, and went up there to the gun racks. I was with them constantly except for a few moments that I went in there, from that time on until they went to breakfast the next morning. Of course I was not with each individual man, but you understand I did not leave the company until the next morning.

Q. To your gun racks there were two sets of keys, were there not?—A. Yes, sir.

Q. One was kept by the noncommissioned officer in charge of quarters and the other was kept by the quartermaster-sergeant?—A. Yes, sir.

Q. That night when you wanted to verify the arms, why was it that you, as a commissioned officer, did not take possession of those keys?—

A. I do not know, sir. I can not answer that question. I did not see any occasion for it.

Q. That would have been a proper precaution, would it not?—A. It would have been an extra one; yes, sir; an extra precaution.

Q. And if you at that time had believed that your men had done the shooting up of the town, you would have taken that precaution, would you not, Captain?—A. Well, at that time I did not know anything about it, Senator—that night. The next morning we did take precautions.

Q. I know. I am asking you if you had known that night. You believed, as your men seemed to believe, that the citizens did the shooting. But if you had believed that any of your men did the shooting up of Brownsville, you would have taken extra precautions?—A. Yes, sir; I think I would.

Q. Because the next morning you did take extra precautions, did you not, with the guns?—A. Yes, sir.

Q. Something has been said by you about company property being left out on the porches of the barracks. What company property do you refer to?—A. We had all classes of property, Senator. I do not know exactly what it was in particular, but we had all kinds. The quarters were very dirty when we first went there, and there was a good deal of trash and rubbish around there, and we had it cleaned out before we allowed them to move things in the storeroom; and then things were brought out piecemeal and put on the porches, a little of everything—lockers and boxes, and a little of everything.

Q. Did you see any ammunition out there?—A. I do not recollect that I did. I do not remember anything that was out there at all.

Q. You could not say what there may have been?—A. No, sir; I could not.

Q. And do you know how much ammunition you had on August 13—your company?—A. No, sir; I can not tell you. I checked it off to my own satisfaction the next day, but I do not know how much it was.

By Senator FORAKER:

Q. That is, you do not remember now?—A. No, sir. I did then.

By Senator OVERMAN:

Q. Is your recollection positive that there were any guns in those racks when you inspected them, or is it your conclusion from the calculation that you have made?—A. No, sir; I know that there were some guns there; and, as I say, I took a check to my own satisfaction.

Q. You do not remember seeing any guns now, but you just estimated that there were six from your calculation?—A. That is it. There may have been six, or eight, or ten. That is, as far as I was concerned, I checked the guns of my entire company that night.

By Senator WARNER:

Q. You say you do not know now. I will read you this question and answer from your examination:

Q. Did you know on August 13?—A. No; I think not.

A. Is that about the ammunition?

Q. Yes.—A. That is my answer; yes, sir.

Q. That you did not even know then?—A. I did know, in this way. All the ammunition that I brought from Fort Niobrara was there, intact, and had not been opened.

Q. Had not the ammunition been issued to your company that night?—A. Well, that one box, but that was easy to account for. There was just 1,200 rounds in it, and I accounted for that. Lieutenant Grier was there and had issued that, and that accounted for itself. That was easy to check off.

Senator WARNER. I think that is all.

By Senator OVERMAN:

Q. Captain, you said that when you counted the men at half past 1 o'clock, or about that time, there were three men absent on pass. Who were they?—A. Sergeant Thomas, Private Lee, and Private Johnson.

Q. Did they come in that night?—A. No, sir; they came in the next morning.

Q. They were not there at all that night?—A. No, sir.

Q. Had you not made an order that all men on passes should be in?—A. We could not find them, Senator. I knew they were out that night when I finished my patrol, but we could not find them. The first precaution that we took—that is, to get the men in; that is, at retreat time—the men were notified that all passes were revoked, and each company commander notified his first sergeant to send some trustworthy man out in town to get these other men. About 8 o'clock I went past the company and asked the first sergeant whether those three men were in, and he said no, they were out, and I asked him where they were, and he said he thought they had gone to Matamoros, and that is one reason we sent this man down to the dock. And all night, Senator, I knew they were out, and I so reported the fact to the commanding officer.

By Senator FORAKER:

Q. But you found their guns in the racks?—A. Yes, sir; these men were just on the ordinary pass.

Senator FORAKER. Yes.

By Senator OVERMAN :

Q. Why did you go and check up their guns, then?—A. That was the next morning.

Q. That was the next morning?—A. Yes, sir.

Q. How do you know what time they came in?—A. I saw them.

Q. You saw them?—A. Yes, sir.

Q. Where did they come from?—A. They came from town, sir.

Q. Where did they come in?—A. They came in at the main gate.

Q. Were you there when they came in?—A. Yes, sir. I asked the sergeant where he had been, and he told me he had been out on pass.

Q. Which sergeant?—A. Sergeant Thomas.

Q. Did they all come in together?—A. No, sir.

Q. They returned separately?—A. Yes, sir. I do not know the hour, but their passes, if I remember, were until 7 o'clock.

Q. You saw all three of the men?—A. Yes, sir. I did not see them all three come in the gate, but I saw all three of them soon after. I saw two come in the gate, and saw the other one a few minutes afterwards.

Q. You knew that he had come in, but you did not know where he came from?—A. Yes, sir; but I knew where he lived. He was a married man. I knew where he lived.

Q. You knew where to send for him that night, then?—A. I did not know until the next morning that he was one of the men out. The first sergeant reported to me, "Captain, there are three men out on pass."

Q. You did not know until the next morning?—A. No, sir; not until toward 1 o'clock.

By Senator WARNER :

Q. To return to those shells for a moment. When you gathered up those shells did you look to see if there was evidence of their being recently exploded or not?—A. No, sir; the shells were quite bright. I did not look inside of them. Do you mean that?

Q. Yes.—A. No, sir.

Q. You could not give an opinion, then, as to whether they had been recently discharged or not?—A. No, sir; I could not do that. I would not like to do it.

Q. And you made no examination as to that fact?—A. No, sir.

By Senator OVERMAN :

Q. But there was enough evidence to satisfy you that some of the men had done it, from what you saw?—A. I thought so then, Senator; I thought so.

By Senator FORAKER :

Q. You thought so because you found these shells and clips?—A. Yes, sir; I thought so because I found the shells and clips; and it did not seem natural to me at that time that anybody else would have them.

Q. On the direct examination you told in detail where all your men were.—A. Yes, sir.

Q. You accounted for all of them?—A. Yes, sir.

Q. Now, while you are not able to tell us with certainty about the number of guns that were here and the number of guns that were there and at the other place, I understand you to say that you did not know that night how many guns you had to account for, and you checked them all up to your satisfaction and found every gun in its proper place?—A. Yes, sir; I did; and I had to go in the next morning and get out the 13 guns that had never been opened from the time we left Niobrara. The whole thing was checked to my satisfaction that night, and I so reported to Major Penrose. I can not tell you when it was, but it was immediately afterwards. We had so many things to do.

By the CHAIRMAN:

Q. I want to ask you a few questions right along the line that you have been testifying on. What time in the morning afterwards did you complete the check to your satisfaction?—A. This check of the rifles?

Q. Of the rifles, and boxes, and so forth.—A. The first thing was the inspection of the guns, and then, after I got through with them—I had quite a long line there, half a mile long—I came back and inspected the guard and went right into my company quarters. It could not have been very long. It must have been about 7.

Q. What time in the morning was it when you completed it?—A. It must have been about 7.

Q. These shells that you found; how far were they from B barracks, just approximately?—A. I think the distance from the barracks to the wall is 90 feet. It was about 96 or 98 feet.

Q. That is, would it be within 100 feet of the barracks?—A. I think that is the distance, as nearly as I can recollect it.

Q. Where you found those shells, you were satisfied at the time that men fired them from that point, were you?—A. I thought so; yes, sir.

Q. How long, approximately, is B Company barracks?—A. I suppose it is 150 feet, Senator.

Q. And about how high?—A. Oh, probably 30 feet, or 32 feet.

Q. What was there between that and the point where the firing was; anything except this low wall?—A. Yes, sir; another building.

Q. What?—A. Another building.

Q. Was that other building long enough to obscure the barracks?—A. Oh, no, sir; it was just a small building, about 10 feet wide, I should think—10 or 12 feet.

Q. In your testimony I think you said that you wrote up these affidavits for the men, taking down what they said?—A. I ought to modify that, Senator, to say that I took down the original statements that they made. I did not write up the affidavits.

Q. In these statements you have testified that these men said they believed that the firing was at the barracks.—A. No; out in the alley.

Q. Yes; from the alley; but at the barracks.—A. Yes, sir; at the barracks.

Q. Did it strike you that any man that could fire a gun at a distance of less than a hundred feet at a barracks that was 150 feet by 30 feet high could fail to hit it?—A. Well, no; I didn't think anybody could miss it; but what I thought was that it was done to

frighten the men more than to shoot at them or hit them. I never have for a moment thought, and do not mean to say, that these people came up there to shoot the men and kill them, because if they had, they would have been bound to hit them.

Q. As a matter of fact, do you think that they shot at the barracks?—A. You mean if I think so?

Q. Yes.—A. No, sir; I do not think so.

Q. Do you think that the men thought so in making this testimony?—A. Yes, sir; I think so. I thought they were honest in making their statements.

Q. You thought that soldiers believed that men could fire at less than 100 feet at an object 150 feet long by 30 feet high and not hit it?—A. No, sir; I thought they believed that the shooting was done to frighten them and not to hit them, as I did.

Q. In other words, that they were firing not at the barracks, but in the air?—A. Yes, sir; over them.

Q. And notwithstanding that they all testified that they thought the firing was at the barracks?—A. No, sir; not all of them.

Q. Well, some of them?—A. No, sir; in the direction of the barracks. I do not mean by my testimony, or any statement I have made, to convey the impression that I think that firing was directly at the barracks. I do not mean to give that impression.

Q. Now, I want to ask you a question, Captain, and you need not answer it if you do not want to. I will ask the question, and if you do not think that it is proper you must say so. The newspapers gave an account of some attack made upon you in the way of an assault, or attempted assassination, sometime after this affair at Brownsville, at Fort Reno, and in some of the papers it was stated that that had some connection with this affray down there. Are you willing to state whether or not you believe there is any connection between those two affairs? You need not answer it if you do not want to.—A. It does not make any difference about answering it. I have no hesitation in saying that I do not know, Senator. The officers of my regiment tried to make me believe that it was robbery, but my own theory is that it was not.

By Senator WARNER:

Q. That it was not robbery?—A. That it was not, because I think if it had been robbery the man could have gotten the money without going as far as he did.

By Senator FORAKER:

Q. Do you know who the man was at all?—A. We have a man in confinement at Fort Sill. The evidence against him is entirely circumstantial. This man wore a mask that night, and I only saw his hands, not his face. He was a colored man.

Q. I think you spoke of being a little deaf in consequence of the wound that you received at that time?—A. I think that caused it. The bullet went in here and was cut out here [indicating].

By the CHAIRMAN:

Q. That is, it went in at the forehead, at the left side of your head?—A. Yes, sir; and it was cut out on the right-hand side, down about here [indicating].

Q. That is, down in your jaw, on the opposite side?—A. Yes, sir; it broke my jaw there.

Q. A very severe wound.—A. Yes, sir. The man under arrest is Corporal Knowles, of Company A.

By Senator FORAKER:

Q. He is still in the service?—A. Yes, sir.

Q. He was not at Fort Brown?—A. No, sir; and as far as I can recollect, I do not think I ever saw him before.

Q. As I recollect your testimony, you did not say that these men who did the firing shot at the barracks; you said they shot toward the barracks?—A. That is the impression that I want to give.

Q. The statement is that you supposed that they were shooting over the barracks?—A. Yes, sir.

Q. With a view to frightening the men?—A. Yes, sir.

Q. You spoke of inspecting the guard the next morning. I will ask you—I intended to do it before, but it escaped me—can you tell where you found the guard, Howard, the next morning, who had been on duty and had fired his gun at the time of the shooting?—A. Yes, sir; he was over near B—on the front side, as near as I can recollect, of B or D Company quarters.

Q. On his post?—A. Yes, sir; walking his post.

Q. You did not find him, then, in the guardhouse?—A. No, sir; I did not. He was one of the men on post.

Q. A good many of your guns were injured that night in breaking open the gun racks?—A. Yes, sir; some of the sights were cut clear off.

Q. Do you have any recollection of ordering the quartermaster-sergeant to exchange any of those guns for new guns afterwards—that is, for guns of men who had been discharged, and which had been turned in?—A. I do recollect giving that order, but I did not know to whom they were given.

Q. You remember giving the order?—A. Yes, sir.

Q. That is enough. I will not go into that. Now, you do remember that while you were at El Reno a number of the men engaged in the competition target firing?—A. Yes, sir.

Q. After you went there?—A. Yes, sir; we had monthly matches.

Senator FORAKER. We have been over that in detail?

Senator WARNER. I think so.

By Senator SCOTT:

Q. Captain, I want to ask you a question. From the point where you found those shells and clips, could a man standing there have killed the horse, wounded the man, or killed the woman from that point?—A. He could have fired down that street, Senator. I do not know where the horse was that was shot. I have never found that out. But he could have fired right down that alley from where I saw the shells.

Q. Standing where you saw the shells, could he have shot into the house where these bullets were cut out?—A. I think he could; yes, sir. I do not know where Major Blocksom found the most of these bullets. He never told us.

At the request of Senator Foraker the preceding testimony was read, as follows:

Q. Captain, I want to ask you a question. From the point where you found those shells and clips could a man standing there have killed the horse, wounded the man, or killed the woman from that point?—A. He could have fired down that street, Senator. I do not know where the horse was that was shot. I have never found that out. But he could have fired right down that alley from where I saw the shells.

Q. Standing where you saw the shells, could he have shot into the house where these bullets were cut out of?—A. I think he could; yes, sir. I do not know where Major Blocksom found the most of these bullets. He never told us.

The WITNESS. The house that the Senator refers to I assume to be the Cowen house.

Senator SCOTT. I do not refer to any particular house.

By Senator FORAKER:

Q. You stated that you thought it was possible that some of the men might have got excited and fired some shots from the back porch after the firing commenced. Have you any knowledge of anything of that kind having occurred?—A. No, sir; I have not.

Q. Did you hear of anything of that kind occurring?—A. No, sir; that is merely a presumption on my part.

Q. If anybody did get excited and fire his gun from the back porch, it probably would have been dirty next morning when you inspected it?—A. Yes, sir.

Q. You did not find any dirty gun?—A. No, sir.

Q. And you did not hear anybody say that anything of the kind happened?—A. No, sir.

Q. You do not mean to be understood as saying that that probably did happen?—A. Oh, no, sir; I do not want to be understood that way at all.

Q. You testified about five men at El Reno being court-martialed and being sentenced to a year and a half imprisonment for breaking the guard and violating the order not to go downtown. Can you tell us whether or not they were told that if they would tell who did this shooting they would be exempted from punishment?—A. No; I can not, Senator.

Q. Do you not know about that?—A. No, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Just one question that I forgot. You say you opened the arm chest to get out 13 guns?—A. Yes, sir.

Q. How many guns are there in an arm chest?—A. They were in two. One arm chest holds 10 guns.

Q. I thought you would not want to leave it that way.—A. No, sir; an arm chest holds 10 guns.

Q. And you opened two chests?—A. Yes, sir. These had never been opened from the time we left Niobrara until that time.

Q. In your inspection that you made you inspected all the men of the different posts, all the guns, and it took you how long to make the inspection; about an hour?—A. Yes, sir; I should think fully that long. It was quite a long line.

Q. It was quite a long line. It extended from the gate up over where?—A. Around the quartermaster's building. That is No. 60 there; that was the last post. I have estimated that line. I never measured it, but I estimated the line to be about a half a mile long the way we had to walk. We walked away up into this corner [indicating on map].

Q. And then you went and inspected the guardhouse, the headquarters?—A. Yes, sir.

Q. The headquarters was at the guardhouse?—A. The main guard was at the guardhouse; the main guard and the prisoners.

Q. And you inspected those?—A. Yes, sir.

Q. And you found no foul guns?—A. No, sir.

Q. No suspicious guns?—A. No, sir.

Q. In going along that way you had to be pretty expeditious; and that was as soon as you had light?—A. Yes, sir. I made a very careful inspection, and in many cases I had to use a rag, you know.

Q. You took along with you a ramrod?—A. No, sir; I did not have any rod. I had a handkerchief, and I used that.

Q. You had no rod?—A. No rod; no, sir.

Q. How would you use your handkerchief in order to determine whether a gun was dirty or not?—A. Well, if a gun looked at all suspicious I could put that handkerchief down in there an inch or 2 inches, and that will remove all there is in that breech.

Q. If that showed nothing, that would be all there was of it?—A. Yes, sir.

Q. You did not find anything that looked suspicious?—A. No, sir.

Q. So that you did not use the handkerchief?—A. No, sir; nothing but just this—

Q. You did not use it?—A. Yes, sir; I did; but that was just to satisfy myself.

Q. You did not have this brass rod along?—A. No, sir.

Q. Nobody with you had a brass rod to make any test?—A. No, sir.

Q. You are quite clear about that?—A. I feel satisfied about that.

Q. And you made the test, and the only test, in the way of which you speak?—A. Yes, sir. That inspection was also to my entire satisfaction when I got through, and I made that report to Major Penrose immediately afterwards.

Senator WARNER. That is all that I wish to ask you.

By Senator FORAKER:

Q. Sergt. Newton Carlisle was of your company?—A. Yes, sir.

Q. He has testified before this committee that he accompanied you on that morning, by your order, and that he assisted you in using the rag?—A. Yes, sir; I think he did accompany me.

Q. You had forgotten that when you testified a moment ago?—

A. I am satisfied he accompanied me. I think what the Senator is looking for is where he says that he carried along a rod; but I have no recollection of that, Senator.

Senator FORAKER. I want to find this testimony of Sergeant Carlisle on that point.

By Senator WARNER:

Q. While Senator Foraker is finding that testimony let me ask you one question. Have you not already testified here to-day that no

sergeant accompanied you on that inspection?—A. I do not know whether I have or not.

Q. That is for you to say. It is not proper for me to say whether you have or not. I might be mistaken.—A. I think I said that before the court-martial of Major Penrose; that Sergeant Carlisle was with me. If I did say that no one accompanied me I was wrong, because I am satisfied that Sergeant Carlisle did go with me. In all these trips along the line I took one of the sergeants, either Sergeant Carlisle or another sergeant, with me.

Senator WARNER. I may be wrong.

The WITNESS. Yes.

By Senator OVERMAN:

Q. If he did go along, there was no rod used?—A. No, sir; not that I remember. As I have said before, there were so many things that happened that it would be hard to recollect every little detail.

By Senator SCOTT:

Q. Captain, you having in your own mind become convinced the next morning that the men had done this shooting, then it required a good deal of evidence in the opposite direction to change your mind, did it not?—A. Yes, sir.

Q. And you think since that time you have had an opportunity, from your association with the men and the circumstances surrounding the men when you went to Reno, considering the certainty that they would be discharged with dishonor or without honor, and other like conditions, so that you have changed your mind, and now believe, as I understand you, that the men did not do that shooting?—A. Yes, sir; that is my belief to-day.

By Senator OVERMAN:

Q. You say you have been searching for evidence in order to acquit them, if possible. You have said that, I believe?—A. Maybe I have, sir.

Q. You have read this evidence with the idea of acquitting your men, if possible, because you were fond of them, you say?—A. I did not read it with the idea of acquitting them, Senator.

Q. Did you not have that in mind all along, as you were reading the evidence, and hunting out evidence?—A. I have not been hunting out evidence. I have been weighing the thing in my own mind, to the best of my ability.

By Senator FORAKER:

Q. You tried to find out who did the shooting?—A. Yes, sir.

Q. In every way, whether anybody in your battalion did it?—A. Yes, sir.

Q. I read now from the testimony of Sergeant Carlisle, at page 422 of the hearings before this committee:

Q. Were your guns inspected at any time; and if so, when and where?—A. They were inspected the next morning before we were relieved off guard.

Q. Before you came off guard?—A. Yes, sir.

Q. By whom?—A. By Captain Macklin.

Q. What kind of an inspection did he make of the guns in so far as you saw it?—A. I went around with him from No. 1—

Q. You went around with him?—A. Yes, sir; all the way around.

Q. Yes. Did you see the entire inspection?—A. Yes; I seen the entire inspection from No. 1 post to No. 7.

Q. What kind of an inspection did he make?—A. He taken each man's gun, and sometimes if a gun looked anyways dusty, like guns will get staying in the rack—they will get dusty if you haven't got a cover over them, he caused a rod and a cleaning rag to be run through.

Q. He had the rod brought from the company?—A. Yes, sir.

Q. And did you have the rod out on the line with you before he sent for it?—A. No, sir; he sent for the rod.

Q. When?—A. He sent for the rod that morning before he started the inspection.

Q. You went with him; did you carry the rod?—A. Yes, sir.

Q. When the rod was used, who used it?—A. When the rod was used, Captain Macklin used it.

Q. He used it himself?—A. Yes, sir.

Q. Who furnished the rags?—A. The quartermaster-sergeant furnished the rags.

Q. Did he go around with you?—A. No, sir.

Q. Who got the rags from the quartermaster-sergeant?—A. I don't know; I don't know who the captain sent for these rags, but he sent somebody; I don't know who. I know when the inspection was about ready, when they were about ready to go around, about ready to start out with the inspection, that was the time—

Q. You know he did have rags?—A. I know he did have rags; yes, sir.

Q. And a cleaning rod?—A. And a cleaning rod; yes, sir.

Q. Did you find any of those rifles that you used the rags and the cleaning rod on to be dirty?—A. No, sir; none.

Q. You were looking for powder?—A. Looking for powder; yes, sir.

Q. And did he inspect the guns more than the barrel or did he look to the chambers?—A. Also to the chambers. When he got to a man at each post, the commander of this post, when we got to him or when we were just about to get to him, he had his post men to fall in; and the men who were not on post, the surplus men, he had two other men besides himself that were not on post, and they would fall in, and as he inspected a man he would come up and open the chamber and pull his bolt back; that would open the chamber, and he would then take the gun and inspect it; and if it showed symptoms of powder or anything that looked like dirt, he would have this rag run through.

Q. Did he find any gun that had any powder stains on it at all?—A. No, sir.

Now, Captain, does that refresh your recollection?—A. Well, he may be correct, Senator, but I do not recollect that portion of it. I recollect that the inspection was made—a very careful inspection—and that all the guns were found clean, to my satisfaction, and I reported that fact to the major.

Q. Do you remember his accompanying you?—A. I remember that; yes, sir; distinctly, now. But I do not remember the other part of it.

Q. You told us this morning that he was a man who had your confidence; that you had confidence in his truth and veracity. He was an old soldier, was he not?—A. Yes, sir.

Q. You were looking to see whether or not any gun had been fired?—A. Yes, sir.

Q. And whether you had any cleaning rod or not, you were perfectly satisfied with the inspection?—A. Yes, sir; but that portion of it, that morning, I can not tell you.

By Senator SCOTT:

Q. Senator Hemenway wants you to show him how you inspected the gun.—A. (Taking gun from gun rack.) The first thing, you throw open the bolt, in this way, and then you turn the gun over and throw it up and sight through it from the muzzle, carefully [illustrating].

By the CHAIRMAN :

Q. Horizontal, on a level with the eye, and look through it?—A. Yes, sir; and we turn it up so that the sun's rays will reflect through the breech.

Q. Pardon me, but do you ever use a piece of white paper below to throw up the light?—A. No, sir; I never have done that. It is always bright, generally, when we have our inspections.

Q. That would help, would it not, to put a small piece of paper in there?—A. Yes, sir; that would help. Then we take out the bolt, in this way, and that gives you a good view of the whole breech mechanism. Oftentimes you put your finger in the bore, here, and if powder does drop down there you see it on the little finger [indicating]. We usually have on gloves, white gloves, when this inspection is made. That morning we had no gloves; it was just like field service.

By Senator SCOTT :

Q. Where would you use a handkerchief, here?—A. Up here [indicating]; just twist it up and run it down in the muzzle.

By Senator HEMENWAY :

Q. That is the character of the inspection you made that morning?—A. Yes, sir. The sun was just coming up, as I remember, as I was getting to the last post; and if you throw up the gun and look through it so that the sun's rays go right into the chamber, it gives you a good view of the whole bore.

By Senator FORAKER :

Q. You have been inspecting guns all the time that you have been in the Army?—A. Yes, sir; I have been fifteen years in the Army, and for a long time I was regimental adjutant and had to inspect the men and select orderlies.

Q. And you could tell, from such an inspection as you made that morning, if the guns had been fired?—A. Yes, sir; I think I could.

Q. Is there any doubt about that in your mind?—A. No, sir; no doubt at all.

Q. And you found the guns all clean?—A. Yes, sir.

By Senator HEMENWAY :

Q. Are you a graduate of West Point?—A. No, sir.

By Senator FORAKER :

Q. The guns were all clean?—A. Yes, sir; and I so reported to Major Penrose.

By Senator SCOTT :

Q. And you were looking for guns that had been fired, and were very anxious to find one, if it had been fired?—A. Yes, sir; very anxious.

By the CHAIRMAN :

Q. You were asked if you were a graduate of West Point, and you said no. Did you come up from the ranks?—A. I left the ranks and came in in 1898 from civil life.

Q. Then you did not have fifteen years' continuous service?—A. No, sir; I had a little broken service. I did not remain in the Army.

Q. I thought that if you had fifteen years' continuous service you must have been in the ranks or come in from West Point.—A. Yes, sir.

By Senator OVERMAN:

Q. You were asked the question if you were anxious to find a gun that had been fired. I might ask you the question, You were anxious to find no gun that had been fired, so that your men might be cleared?—A. Yes, sir.

Q. So that it was both ways?—A. Yes, sir.

(Witness excused.)

(At 4 o'clock p. m. the committee adjourned until to-morrow, Tuesday, April 2, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Tuesday, April 2, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Hemenway, Warner, Pettus, and Overman.

TESTIMONY OF CAPT. SAMUEL POWELL LYON, U. S. ARMY.

(The witness was sworn by Senator Scott.)

By Senator FORAKER:

Q. Please state your name in full.—A. Samuel Powell Lyon.

Q. Are you an officer of the Twenty-fifth U. S. Infantry?—A. Yes, sir; captain, Twenty-fifth Infantry.

Q. Captain of what company?—A. Company D.

Q. Were you with your company and the battalion to which it belonged at Fort Brown in August last, 1906?—A. Yes, sir.

Q. Do you remember the occurrences of August 13 and 14, when there was a shooting affray in Brownsville?—A. I remember that there was shooting there about midnight of that night.

Q. Where were you when it commenced?—A. I was in bed in my quarters.

Q. Were you asleep or awake?—A. I had just been asleep a few minutes.

Q. It happened about midnight is the understanding?—A. Yes, sir; midnight, or a few minutes afterwards.

Q. How long had you been in bed?—A. I should say about ten minutes.

Q. State what occurred when you awakened. What wakened you?—A. I was awakened by shots a few minutes after 12 o'clock.

Q. How many shots did you hear at that time?—A. I heard two shots first.

Q. Do you know whether or not they were the first shots fired?—A. I do not, sir; they were the first I heard.

Q. They were the first you heard. About where were they fired from—about what location?—A. They were fired apparently from the road dividing the post from the town and over beyond the building No. 41, the commissary-sergeant's quarters; off in that direction *somewhere. That is where they appeared to me.*

Q. That would be about opposite the guardhouse, you mean? I will ask Senator Scott to explain the map to you.—A. I think I understand it.

Q. You do understand it? Can you indicate about where you think those first shots were?—A. In this general direction here [indicating on map].

Q. Yes. You heard two shots?—A. Yes, sir.

Q. Can you tell from what kind of a firearm they were fired?—A. Those shots were undoubtedly revolver shots; black powder.

Q. What?—A. Black powder.

Q. Black powder?—A. Yes, sir.

Q. Those were the first you heard. Then what did you do?—A. After I heard those first two shots there were five or six shots fired at a few seconds' interval—that is, a few seconds after the first two—and they were also, in my mind, revolver shots. They were fired in rapid succession.

Q. About where were they located?—A. I could not attempt to locate them definitely, but they were apparently down more in the direction of the quarters here; somewhere about here [indicating on map].

Q. Some little time elapsed between the firing of the two shots and the firing of those others?—A. Yes, sir.

Q. Then what did you next hear?—A. Almost immediately following those revolver shots there were a number of shots fired which, in my opinion, were fired from small-caliber high-power rifles.

Q. When you say high-power rifles what kind of rifles do you refer to?—A. The modern rifles of approximately .30 caliber, using a smokeless powder, and of high velocity, having a muzzle velocity of 1,700 feet or over.

Q. How many rifles are there that might be described by the term high-power rifles?—A. I do not think that I could name them all. The Winchester people make several patterns of high-power rifles. Then there is the Marlin, and the Savage, and the Ballard.

Q. It might have been any of those kinds of rifles?—A. Yes, sir.

Q. You do not mean, necessarily, when you say high-power rifles, the Springfield rifle?—A. No, sir.

By Senator OVERMAN:

Q. But it might have been the Springfield rifle?—A. Yes, sir.

Q. The Springfield is a high-power rifle?—A. Yes, sir.

By Senator FORAKER:

Q. The report made by a high-power rifle is practically the same, whether it is from a Springfield or a Winchester or a Krag, is it not?—A. As far as I know, sir.

Q. Well, about where were those high-power rifles fired from, as nearly as you can judge?—A. Somewhere outside the wall and in rear of about the center line of the barracks.

Q. Do you know where what we call the Cowen alley is located on that map?—A. Yes, sir; here it is [indicating].

Q. That is it. Where were they, as nearly as you can judge, with reference to the mouth of that alley? Were they in that vicinity, would you judge?—A. I did not attempt to locate at that time. I knew it was in that general direction.

Q. When the firing commenced, what did you do?—A. I got up at once and partially dressed myself and went as quickly as I could to my company.

Q. State whether or not you heard the call to arms sounded; and if so, about what time was that sounded, with reference to your starting for your company from your quarters?—A. From the time I heard the first shots until I had got out of my quarters it could not have been more than forty seconds, I should say; and as I was coming onto my front porch I heard the commanding officer shouting to the guard to sound call to arms; and the call to arms sounded almost immediately after that.

Q. Where did it sound from?—A. From the vicinity of the guard-house, sir.

Q. That was Major Penrose?—A. Yes, sir.

Q. To whom do you refer; the commanding officer?—A. Yes, sir.

Q. State whether or not that call to arms was repeated by other trumpeters.—A. It was, sir; from the trumpeters of the companies at the barracks.

Q. All of them?—A. I do not know whether it was by all or not; but there were several.

Q. You remember hearing it repeated?—A. Yes, sir.

Q. More than once?—A. Yes, sir.

Q. You started for D Company barracks?—A. Yes, sir.

Q. Indicate on that map at this point, if you please, where your quarters were that you were occupying.—A. These quarters are incorrectly numbered on this map; but I lived in No. 3, just here [indicating].

Q. That is the third building from the east end of the officers' quarters?—A. Yes, sir.

Q. Major Penrose had the first, as I understand?—A. Yes, sir; he lived in these quarters here [indicating].

Q. Then, who lived between you and the commanding officer?—A. I think some of the lieutenants who were absent at the competition lived there.

Q. You were in No. 3 quarters?—A. Yes, sir.

Q. Did you have your family with you?—A. Yes, sir.

Q. Your wife?—A. And two children; yes, sir.

Q. Who occupied the next quarters going west, next to you?—A. My second lieutenant occupied those quarters, but he was away at the competition.

Q. Who was that?—A. Lieutenant West.

Q. Then the next quarters, who occupied that building?—A. I do not recollect.

Q. No matter. You ran, then, from your quarters?—A. Yes, sir.

Q. Where, across to your company?—A. Yes, sir; by the shortest route, right across here.

Q. Then what occurred when you reached your company?—A. When I got to my company the men had just started to come downstairs. The gun racks, apparently, had just been opened, but there were only one or two men who had got outside. I went in on the first floor of my company barracks, and I met my quartermaster-sergeant.

Q. Q. M. Sergt. Thomas J. Green?—A. Q. M. Sergt. Thomas J.

Green; yes, sir. And I asked him what the trouble was, and he said that the post was being fired upon from the town.

Q. Yes.—A. Then I went outside again and superintended the formation of my company.

Q. Your men were coming out of the barracks then with their guns, were they?—A. Yes, sir.

Q. How long did it take you to get across from your quarters to your barracks, as nearly as you can state?—A. About twenty-five seconds.

Q. So that you were over there before the firing had been going on more than two or three minutes?—A. Yes, sir.

Q. Did you walk or did you run?—A. I ran as fast as I could.

Q. Then what did you do as to your company? State whether or not at that time the firing was still going on.—A. The company was formed in the usual manner—that is, in double ranks.

Q. Then what did you do as to verifying your men, if anything at all?—A. At the time the company was formed in front of the quarters I had no roll call. After the men were apparently all out I called the noncommissioned officer in charge of quarters, Corporal Powell, and asked him if everybody was out, and he said "Yes." Then I reported to Major Penrose that my company was formed.

Q. Where was Major Penrose at that time?—A. He was somewhere in the vicinity of B barracks on the parade.

Q. Did you go to him at the place where he was, or did you report to him from a distance?—A. I reported to him from a distance, sir. I stayed with my company.

Q. What instructions did you receive from him at that time, if any?—A. He directed me to move my company around in rear of barracks and post them along the garrison wall.

Q. About how much time had it required to get your company out and to form it and to make that report and receive that order, as nearly as you can estimate?—A. I should say about five minutes.

Q. You marched your company around, then, and posted it in rear of the wall, did you?—A. Yes, sir; in line of skirmishers.

Q. With your right at the gate and your left down toward the river?—A. Yes, sir.

Q. State whether or not the firing had ceased at the time when you moved away from your quarters.—A. To the best of my recollection, the firing had ceased just previous to the time I moved away from the company parade—that is, away from the quarters.

Q. So that during the five minutes, if it was that long, that you were engaged in forming your company the firing was going on?—A. Yes, sir; there was firing going on.

Senator WARNER. I understood that it took him about five minutes to the time he got his company moved around behind the quarters.

Senator FORAKER. My question was how long did it take him to form his company after he ran to the barracks, and he said five minutes.

The WITNESS. I did not understand the question. It did not take five minutes.

Senator FORAKER. Very well.

The WITNESS. It did not take to exceed three minutes—three or four minutes.

Senator WARNER. I understood your answer was that after you reported to Major Penrose that your company was formed, to the time you moved around and were posted at the wall, that took you about five minutes?

The WITNESS. I do not think so, sir.

By Senator FORAKER:

Q. I will ask him again. I know what I was trying to get at. I asked you how long it was after you heard the first shot until you got started over from the quarters to the barracks, and you answered that, and then I asked you how long it took you to get over to the barracks, and you answered that, and then I asked you how long, in your judgment, it took you to form the company and make this report and receive this order from Major Penrose to post your company in rear of the barracks, and I understood you to say that for the formation of your company and the making of this report and receiving your instructions it occupied about five minutes. Now you want to modify that, do you? This is all a matter of judgment. We only want your judgment about it.—A. Yes, sir; I understand. From the time I got to the quarters to the time I reported to Major Penrose was not to exceed three or four minutes.

Q. You mean from the time you got to the barracks, instead of to the quarters?—A. Yes, sir.

Q. The time you got to the barracks. We speak of the officers' buildings as the quarters, and the buildings that the troops occupied as barracks.—A. Yes, sir.

Q. At any rate, you posted your men behind the wall, and, as I understand you, the firing was going on until about the time you started to move your company around and post them in rear of the barracks, behind the wall?—A. Yes, sir.

Q. About how many shots did you hear altogether, as nearly as you can estimate, if you paid any attention to that?—A. All I received was a general impression.

Q. Yes.—A. I made no attempt to count any shots, or anything of the kind. I should say that altogether there were at least from 100 to 150 shots fired.

Q. What was the nature of that firing? What was the impression on your mind as to the character of arms being used in that firing?—A. As I stated, the first shots I heard were undoubtedly revolver shots. After that came the firing by what appeared to be high-power rifles. Later, the latter part of the firing was almost entirely revolver firing.

Q. The latter part. About where was that firing that you now speak of? Locate it, as nearly as you can judge.—A. It was back in the town. I could not attempt to locate it.

Q. The firing seemed to recede, did it not, from the reservation, going down town farther and farther, until it stopped?—A. The first shots—that is, the rifle shots and the first revolver shots—were nearer the post than the later ones.

Q. State what you did after you posted your men behind the wall, if anything, as to verifying the men of your company and determining whether they were all there.—A. As soon as the men were posted behind this wall I made a roll call, or at least I had the first sergeant of my company call the roll, by order of Major Penrose, and I sent

him into his orderly room to get a lantern, and he called the roll under my supervision, very carefully, and I satisfied myself that there were none of my men who were absent without authority.

Q. Can you tell how many men you were carrying at that time on the roll of your company?—A. Yes, sir; my total enlisted strength was 62. One man was absent at the competition at Fort Sill. I had 61 men present.

Q. Sixty-one present?—A. Yes, sir.

Q. Now, can you tell us where all those men were—how many men you had in line and where those not in line were supposed to be?—A. I think I can, sir. There were 2 men on pass.

Q. Two on pass?—A. There were 6 men on guard.

Q. Yes; 6 on guard.—A. There were 2 men who were employed in the quartermaster's department and slept at the corral.

Q. Yes.—A. There were 2 men who were employed by me and occupied a room in rear of my quarters, and there was the chief baker, who slept at the bake shop.

Q. The chief baker?—A. I think that is all, sir.

Q. That would be 13 men. Thirteen taken from 61 would leave 48. Were there that many men in line, or how many did you have in line?—A. The noncommissioned officer in charge of quarters did not fall in with the company.

Q. He did not fall in?—A. No, sir; and Chief Cook Dade.

Q. Yes.—A. He remained at the company kitchen.

Q. Yes.—A. And there was one man, John Slow, who was left at the barracks also. I should say I had about 45 men in line.

Q. About 45 men. At that time you knew exactly how many men should be present or accounted for?—A. Yes, sir.

Q. And you checked them up, so that it came out accurately and to your satisfaction, did you?—A. Yes, sir.

Q. Can you tell us whether or not from the time of the firing downtown, from the time it ceased, anybody could have joined your company who had been participating in that firing, before you verified the number of your men, without your detecting it? What is your opinion as to that?—A. I think it is possible, but not probable.

Q. You were on the alert, were you, all the while, on account of the firing?—A. Yes, sir; very much.

Q. Now, what next happened, taking the events of the night in their regular order?—A. After my company had been in this position in rear of the wall for a half hour, more or less, the commanding officer, Major Penrose, directed me to form my company and make a patrol through certain parts of the town.

Q. Did he give to you any reason why he wanted you to make that patrol?—A. Yes, sir; he wanted me to find out, if I could, if any of the men who were on pass—there were several men who were out somewhere in the town, or in that vicinity—had been hurt, and also he wanted me to gather what general information I could as to what had occurred, and especially to see if I could find anything of Captain Macklin.

Q. Captain Macklin had not been found up to that time, had he?—A. No, sir.

Q. You made that patrol?—A. Yes, sir; I made that patrol.

Q. Can you describe where you went, having reference to the map

there, so that we will understand it?—A. This is the main gate of the garrison. I went out this gate and turned to the right and went down this road [indicating].

Q. Along the garrison road?—A. Yes, sir; as far as Washington street. Then I turned up Washington street, and I do not know how far I went up this way, and then turned to the left, and I struck the jail up there somewhere, and came down to Elizabeth street. As I was coming down one of these cross streets, the brother of Mayor Combe, that is, Dr. Joseph Combe, halted me, and I halted my company and asked him what he wanted, and he said that he thought that my company was a bunch of Mexicans going to shoot up the post. And then, after he found out who I was and who these men were, he said that the soldiers had done this shooting, and that this man Martinez, I think, had been hurt, and this man Natus had been killed, and that his brother was over there somewhere on Elizabeth street, and would like very much to see me.

Q. You mean Dominguez; he was the man who was wounded?—

A. Yes, sir.

Q. The lieutenant of police?—A. Yes, sir.

Q. Was that the first intimation that you had that anybody thought the soldiers had done this shooting?—A. Yes, sir.

Q. What did you do then?—A. I walked with Dr. Joseph Combe around on Elizabeth street somewhere, and we met his brother, the mayor.

Q. Did you take your company with you?—A. Yes, sir.

Q. You marched them around there?—A. Yes, sir.

Q. Where did you meet the mayor, as nearly as you can indicate it?—A. It was about here, I should say [indicating on map]. I think I came down Twelfth street. I halted here and then came around here.

Q. The corner that you point to is the corner of what we call the Cowen alley and Thirteenth street?

Senator WARNER. No; it is the corner of the alley and Twelfth street.

Senator FORAKER. We have called that in this examination the Cowen alley. We always thought that the Cowen house fronted on that alley.

By Senator FORAKER:

Q. At any rate, the corner you point to is the corner of Twelfth street and the Cowen alley.

Senator WARNER. Let us get him right. He said the corner of Twelfth and Elizabeth streets.

A. Dr. Joseph Combe came down a street at right angles to the street I was marching on, and I think it was about in here he halted me, and then I went down on Elizabeth street, about here [indicating], and met the mayor.

By Senator FORAKER:

Q. You point to the east side of Elizabeth street, between Twelfth and Thirteenth streets, when you indicate the point where you met Mayor Combe, as I understand it.—A. That is my idea of it. I was not familiar with the town at all, and it was night. It was somewhere along there.

Q. What did the mayor say to you? What occurred when you met him?—A. I halted my company, and the mayor told me about the same thing that Doctor Combe had told me, that the soldiers had shot up the town and wounded one man and killed another, and he stated it was a most outrageous thing, and so on, and then he said that he would go into the post with me, and he did.

Q. You returned, then, to the post?—A. Yes, sir.

Q. Marching right up to the gate and entering there?—A. Yes, sir.

Q. With the mayor and his brother accompanying you?—A. Yes, sir.

Q. Well, then what occurred? Did they make a report to Major Penrose or did you?—A. I made a report to Major Penrose, and Mayor Combe also spoke to him, and then the mayor took the commanding officer, Major Penrose, a few yards to one side, and they had a private conversation.

Q. You do not know what that was?—A. No, sir; I do not know of my own knowledge.

Q. Did you receive any instructions afterwards—after that conversation was over; and if so, what were they?—A. I was directed to have another roll call, a careful check of my company, and also the guns.

Q. What were you instructed to do as to the guns?—A. To check them, so that any man who was not there, his gun must be there in its place in the rack.

Q. Did you carry out that order?—A. Yes, sir.

Q. With what result?—A. Every man and gun was accounted for.

Q. Every man and gun. Did you go further in the checking of the guns than simply to count the number of guns in the hands of the men?—A. Yes, sir.

Q. What did you do?—A. I counted the guns in the gun racks, in the armracks—that had not been taken out, and also the guns in the company storeroom.

Q. Did you return to the barracks in order that you might do that? You received this order while you were out at the gate?—A. Yes, sir.

Q. Did you take your company to the barracks?—A. No, sir; my company was held on that road that leads out to the main gate, and I had this roll call and check of the company that was there, and then I had the men fall out and remain right by the road, and I went into the barracks myself, and I forget whether I took my quartermaster-sergeant or my artificer, and the noncommissioned officer in charge of quarters.

Q. Just go into what you did in detail. Did you go to the gun racks and count the guns there?—A. Yes, sir; I counted the guns in the armracks, and then I went to the company storeroom and checked the number of guns I knew I had there.

Q. You must have had your quartermaster-sergeant with you when you went in the company storeroom?—A. I may have had the artificer.

Q. He could open the storeroom?—A. Yes, sir.

Q. Who was that?—A. George W. Newton.

Q. He is not the Newton who was hit over the head? He belonged to C Company?—A. He belonged to C Company.

Q. In what condition did you find the guns in the storeroom?—A. At the time to which I have been referring I did not make any inspection of the guns. I merely counted them.

Q. I mean in what position did you find them?—A. They were in what we call an "arm chest."

Q. Do you remember how many there were in that arm chest?—

A. No, sir; I do not recollect exactly how many there were.

Q. How many guns did you have to account for?—A. Seventy altogether; 69 present.

Q. Sixty-nine present?—A. Yes, sir.

Q. With what guns you had in the hands of your men who were in ranks and the guns in the armracks and the guns you had found in the storeroom, did it make up your 69?—A. Yes, sir; it totaled up 69.

Q. When were those guns that were in the arm chests placed in the arm chests?—A. At Fort Niobrara.

Q. Had they been opened from the time you left Fort Niobrara until you opened the arm chests that night?—A. Not to my knowledge. I do not think they had. If I recollect correctly, I had to have the artificer take the screws out of the chests.

Q. When the arm chest was opened you observed that the guns that should be there were all there, did you?—A. Yes, sir.

Q. In what way were they placed in the arm chest—in the regular way, and in the same way in which they were placed at Fort Niobrara; and were they fastened in with cleats?—A. Yes, sir; that is the only way you can pack guns in the arm chests. They must be set in the proper places and cleated in there.

Q. When you packed those guns at Fort Niobrara for shipment to Fort Brown, state whether or not they were coated with cosmoline.—

A. They were very heavily coated outside with cosmoline, and the interior mechanism also was coated with cosmoline to prevent them from rusting.

Q. Did you find them in that same condition that night?—A. I did not pay any attention to the guns that night as to cleanliness. I simply wanted to check the guns.

Q. You simply wanted to know whether they were there?—A. Yes, sir.

Q. Did you have any revolvers in your company; and if so, did you check them, and what was the result of that check?—A. Yes, sir; I had nine revolvers. One was in my personal possession and the other eight were in the arm chests with the rifles.

Q. You found them there that night, did you?—A. Yes, sir.

Q. Were they coated with cosmoline also?—A. Yes, sir.

Q. Did you see any indications at all that the arm chests had been opened and either the guns or the revolvers disturbed?—A. No, sir.

Q. Could any guns have been used in that firing and then returned—either guns or revolvers—to these arm chests, whatever the number may be, after the firing, without your being able to detect it when you made that examination?—A. I think not, sir.

Q. What did you do after you completed this examination of the guns? Did you at that time make any investigation as to your ammunition?—A. I think the check of ammunition was made the next morning, sir, just after daylight.

Q. Did you issue any ammunition that night?—A. No, sir.

Q. How many rounds of ammunition and what kind of ammunition did your men have when the firing commenced?—A. Each of my men was supposed to have 20 rounds of the ball ammunition.

Q. Ball ammunition. Did you take any steps to issue ammunition?—A. Yes, sir. While the company was being formed for the first time in front of the barracks I directed my quartermaster-sergeant to take a full box of ammunition into my orderly room—that is, the company office—and to open it, but not to issue any until he got specific orders from me.

Q. So that you did not give any further order about issuing ammunition, and none was issued, as I understand you, that night?—A. There was no ammunition issued that night, sir, in my company.

Q. Did you get any instructions from the commanding officer as to the inspection of your guns and the checking of ammunition; and if so, what were they, and at what time did you receive those instructions?—A. Some time between half past 2 and 3 o'clock in the morning, before my company was dismissed to its barracks, Major Penrose, the commanding officer, directed me to have my guns, in the first place, put in the armracks and to certify them myself after they were all in there and the racks were locked, and then, in the morning, as soon as it was light enough, to make a careful inspection of the guns and check up the ammunition.

Q. Did you execute that order?—A. Yes, sir.

Q. At the time when you did that was your company dismissed for the night?—A. The company was dismissed about 3 o'clock. Then the arms were put in the racks, and I went through the barracks myself and verified the arms in the racks.

Q. That was the second time you had counted the guns that the men were handling that night?—A. Yes, sir.

Q. And that were in the gun racks?—A. Yes, sir.

Q. And every gun was there that should be?—A. Yes, sir.

Q. Did these men who were out on pass, or sleeping at the corral, or at your quarters, and other places, have their guns with them, or were their guns in the gun racks?—A. The guard had their guns.

Q. The guard had their guns?—A. But the guns of the other men were all in the racks. It was the custom for the quartermaster-sergeant to keep his gun in his room, of which he had the key, and also for the first sergeant and the company clerk to keep their guns locked in a cupboard which was in their sleeping room, which adjoined the company office.

Q. All the time, from the moment when the company was formed, from the time of the firing down to the time that you dismissed them, they were under arms and on guard behind this wall and making this patrol downtown. About how much time did that patrol require?—A. From a half to three-quarters of an hour.

Q. I will ask you whether or not, in your opinion, your men had any opportunity to clean their guns, if they had been engaged in this firing, after your company was formed and down to the time they were dismissed for the night?—A. No, sir.

Q. You are pretty clear, are you, that no cleaning of guns could have occurred during that time?—A. Yes, sir; I think not.

Q. You saw every gun put in the racks and the racks locked up, I understand?—A. Every gun that belonged in the racks.

Q. I mean every gun that belonged in the racks.—A. Yes, sir; that should have been there.

Q. Now, when did you next see your guns?—A. At a few minutes after 6 o'clock in the morning of August 14.

Q. When you had your men fall in for this inspection, as I understand?—A. They did not know it was going to be an inspection. They were not informed. It was the usual drill hour.

Q. They fell in in response to the drill call, did they?—A. Yes, sir.

Q. Without any notice that they were going to be inspected?—A. Yes, sir.

Q. Or their guns?—A. Yes, sir.

Q. Was there any opportunity for the inspection of those rifles that night, after they were put in the gun racks, until they were taken out again in the morning? Was there any opportunity for the men to clean those guns while they were in the racks?—A. No, sir; you can not clean a gun when it is locked in a gun rack.

Q. That is an impossibility?—A. Yes, sir.

Q. Who was it that had charge of the keys to those gun racks?—A. The noncommissioned officer in charge of quarters, Corporal Powell.

Q. What kind of a soldier and man was he?—A. He was a very good soldier and a man of excellent habits. I have known him for a number of years.

Q. You had entire confidence in his fidelity as a soldier and as a noncommissioned officer?—A. Yes, sir.

Q. The next morning, now, when your men fell in for drill, what occurred?—A. The first call for drill went at 6.20, I believe. I know it did, in fact. As soon as the men had formed—as the company was formed—I prepared them for inspection—that is, I gave the command to open ranks and then “Inspection arms.”

Q. Did you make a careful inspection or not?—A. Yes, sir; I made a careful inspection along certain lines.

Q. What were those lines?—A. To discover if any gun showed any signs of having been fired.

Q. That is, your inspection had special reference to ascertaining whether or not the guns had been fired; to detect powder stains or anything else that would indicate that they had been fired?—A. Yes, sir.

Q. What was the result of that inspection?—A. I found three or four guns whose barrels were not entirely satisfactory. I had those men step to one side, and then I had the quartermaster-sergeant bring out some perfectly clean rags and what is called a barracks cleaning rod.

Q. That is the kind of a cleaning rod you have in your hand there now?—A. Yes, sir [indicating brass rod]; and I took a clean rag for each gun and ran it through the gun, and examined the rag for powder traces, but I found none. My guns were perfectly free from signs of having been fired.

Q. That is true, as I understood you to state, of the guns in the hands of the men who were in line in the company formation. Did you examine the other guns which were in the racks?—A. I know my quartermaster-sergeant went to the racks, and every gun in the racks I took out and worked this same rag operation on it.

Q. And with the same result as to all your guns?—A. Yes, sir.

Q. Then what did you do with respect to your ammunition, if anything?—A. If I remember correctly—the exact details of that operation of checking the ammunition I can not remember, but after the inspection of arms I dismissed the men to the barracks, and each man stood at the foot of his bunk with his ammunition where I could see it.

Q. You examined it?—A. Yes, sir; I checked all of it.

Q. And counted it up?—A. Yes, sir.

Q. By checking, you mean that you counted the ammunition?—A. That each man had; yes, sir.

Q. Was anybody at that time assisting you in that work?—A. I think my second lieutenant was with me. No; he was away. No, sir; there was nobody there but myself.

Q. And you did it personally—yourself?—A. Yes, sir.

Q. What was the result of that? Was there any missing ammunition?—A. The result of that inspection and check of the ammunition satisfied me that there was no ammunition that was unaccounted for; that it was all there that should have been there.

Q. Not a single cartridge missing?—A. Not so far as I could tell, sir.

Q. Have you any doubt at all on that point, Captain, that your ammunition was all there?—A. No, sir; I have no doubt.

Q. Then what did you do as to the ammunition in the storeroom?—A. I had very little ammunition. I only had about 3,600 rounds for which I was accountable.

Q. Was that checked up?—A. Yes, sir; that was checked up and found all there.

Q. That was found all there. So that the result of this inspection of guns and ammunition was that you did not find any dirty guns and did not find any missing cartridges?—A. That was the result; yes, sir.

Q. After you got done with your company, did you inspect any other guns that morning of any other company?—A. Yes, sir; after I completed the examination and inspection of my company the commanding officer, Major Penrose, directed me to assist him in inspecting certain guns in B Company.

Q. What were those guns in B Company? How many were there of them, and how did it happen that you were called upon to inspect the guns in that company?—A. There were about 7 guns, from 6 to 8 guns. These guns had been examined and found to be not absolutely clean, and I know of no particular reason why the commanding officer directed me to assist him in the examination, except that I was the next senior officer to him.

Q. I will ask you, to refresh your recollection, if Company B was not ordered on guard at that moment to relieve Company C, and if that did not take Lieutenant Lawrason away before he could make this reinspection, and if you were not called upon to make the reinspection of the guns of these seven men so that Lieutenant Lawrason might go and relieve Company C?—A. Company B went on guard about that time, because these men were left after the main part of the company had marched off to their post.

Q. Then what was done as to the inspection of those seven guns? Did you or not participate in that inspection?—A. I did; yes, sir.

Q. How was that inspection made?—A. With clean pieces of rag and a cleaning rod.

Q. Who assisted you in making that inspection?—A. I think the quartermaster-sergeant of B Company. I am not sure.

Q. Was or was not the commanding officer present at that time?—A. The commanding officer was there; yes, sir.

A. Did you use the clean rag on each and every one of those guns?—A. Yes, sir.

Q. With what result?—A. They showed no traces of powder.

Q. So that they were all passed?—A. Yes, sir.

Q. And whatever appearance of being less clean than they should be they may have had it was not on account of powder and was not on account of having been fired the night before, you thought?—

A. Yes, sir.

Q. What did you do with those men, as from time to time you got through with the inspection of those guns; do you remember?—A. I do not recall.

Q. Did you order them to join their company?—A. I suppose so.

Q. You do not remember?—A. No, sir.

Q. Before I get away from this, how long have you been in the military service?—A. About seventeen years and a half.

Q. You entered the service as an enlisted man, did you not?—A. Yes, sir.

Q. In what year was that?—A. In 1890.

Q. With what commands have you served?—A. I have served with the First Cavalry, the Sixteenth Infantry, the Twenty-fifth Infantry, and the Twenty-seventh Infantry.

Q. And where have you served? I do not mean at each particular locality, but were you in Cuba?—A. Yes, sir; I was in the Santiago campaign in 1898.

Q. In what regiment were you then?—A. The Twenty-fifth.

Q. You served with the Twenty-fifth there?—A. Yes, sir.

Q. Were you in the battles that the Twenty-fifth participated in there?—A. Yes, sir.

Q. Were you with your regiment in the Philippines?—A. Yes, sir.

Q. So that you have served in the United States, Cuba, and the Philippines?—A. Yes, sir.

Q. When were you made a commissioned officer?—A. In October, 1894.

Q. In October, 1894?—A. Yes, sir.

Q. As second lieutenant?—A. Yes, sir.

Q. And you have now the rank of captain?—A. Yes, sir.

Q. You have been promoted regularly, I suppose, according to seniority?—A. Yes, sir.

Q. So that you have had a good deal of experience not only with these men, but with other commands. I want to ask you how, in your opinion, this battalion, Companies B, C, and D, compared as soldiers with other soldiers of the United States Army?—A. In my opinion they would compare most favorably.

Q. Was it or not a battalion that was well disciplined and well drilled?—A. Yes, sir; the drill and discipline were excellent. I never saw better.

Q. As to the conduct of the men generally as men, what is your opinion as to that?—A. It was in my opinion exceptionally good.

Q. I want to ask you particularly as to the older men in service in

that battalion, particularly the noncommissioned officers. What kind of men were they?—A. They were a most excellent lot of men, and an excellent lot of noncommissioned officers.

Q. You had in your company a number of men who had been many years in the service, had you not?—A. Yes, sir; I had a number of men. The average service of my company when they were discharged last November was between seven and eight years, which means a great many old soldiers.

Q. I will ask you about some of them particularly. Do you remember Sergt. Israel Harris?—A. Yes, sir; I remember him very well.

Q. What kind of a soldier was he?—A. One of the best I ever saw.

Q. What kind of a man was he as to truth and veracity? Was he reliable or not?—A. I always believed him so, sir.

Q. I will ask you as to Jacob Frazier, who was your first sergeant that night, I believe?—A. Yes, sir.

Q. What kind of a soldier was he?—A. Excellent.

Q. Did you have confidence or not in him as a man for truth and veracity?—A. I did, sir.

Q. And how about your quartermaster-sergeant, Thomas J. Green? What kind of a soldier and what kind of a man was he?—A. He was an excellent soldier, one of the best quartermaster-sergeants I ever saw, and I had confidence in his truthfulness and general character.

Q. You have also spoken about David Powell, who was in charge of quarters.—A. Yes, sir.

Q. He was also a reliable, truthful man?—A. I believe so.

Q. You selected the very best men you had, did you not, for these noncommissioned officers?—A. Yes, sir.

Q. Did you know the oldest sergeants of the other companies? Did you know Mingo Sanders, of Company B?—A. Yes, sir; I have known him for thirteen years.

Q. For thirteen years. What kind of a soldier was he?—A. Excellent.

Q. Did you ever hear of him having any trouble with anybody?—A. No, sir; I never heard of it.

Q. How did you regard him as a man, for truth and veracity?—A. I think he was thoroughly reliable.

Q. Did you know Sergt. George Jackson?—A. Yes, sir.

Q. And Sergt. James R. Reid, who was sergeant of the guard that night?—A. I knew both those men, but not so well as I knew these men we have been speaking about.

Q. Did you know anything to the prejudice of either one of them, either as a soldier or as a man?—A. No, sir.

Q. Coming to Company C, what kind of a soldier was Sergeant Harley, if you know?—A. My knowledge of Sergeant Harley is limited to simply noticing him around doing his ordinary duties around the garrison, but he impressed me as being a very efficient non-commissioned officer.

Q. He was wounded in battle, was he not, in Cuba?—A. I believe he was. I do not know.

Q. How about Sergeant Brawner, who was in charge of quarters that night? Do you know him, and what kind of reputation did he

have as a soldier and as a man, for reliability?—A. I knew him fairly well. He was an excellent soldier, and his reputation was very good.

Q. Would any one of these men, in your opinion, be likely to seek revenge for affronts that had been put upon them or their comrades in the way of organizing a conspiracy to go down at midnight and shoot up a town and kill men, women, and children, indiscriminately and without limit?—A. No, sir.

Q. Do you know, Captain, who did this shooting?—A. No, sir; I do not.

Q. Did you have anything to do with it?—A. I did not, sir.

Q. You did not use your pistol downtown that night, did you?—A. No, sir; I did not have it on. I was in too much of a hurry.

Q. Do you know of any facts that lead you to suspect that any soldier in either one of the companies of that battalion was guilty of participating in the firing on Brownsville that night?—A. No, sir; I know of nothing that would make me believe that.

Q. I want to ask you, and you can state or not, as you see fit, what is your opinion as to whether or not the men of that battalion did that firing.—A. My opinion is that they did not do it.

Q. Now, I will turn to another subject. Some experts have made a report to us, and I will ask you whether or not you have seen it. I refer to what is known as a microscopic examination of shells supposed to have been picked up in the streets of Brownsville the morning after this firing; that would be August 14, 1906. Have you seen that report?—A. Yes, sir; I have.

Q. You have looked it over?—A. Yes, sir.

Q. You have read it and understand the theory upon which they proceeded?—A. Yes, sir.

Q. I want to call your attention to the following: You will remember that these experts report that, according to this examination, they have concluded that it is shown beyond a reasonable doubt that certain of these shells were fired out of four rifles belonging to Company B, of which they give the numbers, and they arrange these shells in groups; group 1 having reference to rifle 41019; group 2 relating to rifle No. 45683; group 3 having reference to rifle 42288, and group 4 having reference to rifle 46524, or possibly, because of a confusion in the report, rifle No. 41390. Now, I want to call your attention in the first place to what they say about group 4. At page 1319 of our record they say:

In group 4 there are evidences in the striker imprint of more than one striker blow, and hence little weight can be given to the identification of primer imprint markings, and the first shoulder alone can be relied upon.

Looking to the picture they give us of No. 4, at page 1314, you see what they mean by this double striking of the firing pin. What, if all that be true, does that indicate in your judgment as to when and where and under what circumstances those cartridges were fired out of that gun?—A. The double imprint of the striker is to me conclusive proof that the cartridge the first time it was attempted to fire it misfired—that is, failed to explode, and that it was tried again, either in the same gun or another gun and got a second imprint of the striker.

Q. Well, now, you have knowledge of the guns that these companies were armed with. You received them while at Fort Niobrara, did you not?—A. Yes, sir.

Q. What was your experience with them as to double striking being necessary to explode a cartridge? When, if ever, in the history of these guns was that likely to have occurred?—A. That misfiring or failing to explode the cartridge, I had it happen very often during the target practice. It was due to one of two causes—either the cosmoline oil on the mainspring had become stiffened, reducing the power of the mainspring, or else when the man pushed his bolt down he failed to push it all the way down. Either one of those causes is very apt to cause a misfire, and it was a common thing, especially during the instruction practice, to have a man try a cartridge a second time.

Q. How long were you troubled with that condition that arose from the use of the cosmoline oil which you have testified to?—A. Until the springs were cleaned.

Q. The rifles came to you from the arsenal coated with this cosmoline?—A. Yes, sir.

Q. And it was so thick, as I understand you, that it interfered with the strength of the spring?—A. In a number of cases.

Q. And that had to be removed and the gun carefully and properly oiled up before it did its work properly?—A. Yes, sir.

Q. State whether or not, after you got those guns into good working condition, that double imprint was likely ever to occur except in the one case you have just mentioned.—A. No, sir; I think after we got those mainsprings properly cleaned that we had very little trouble after that.

Q. State whether or not a double imprint would be likely to be given to any cartridge that was fired under such circumstances as men would fire those guns under who were out shooting up a town in an affray such as has been described here.—A. No, sir; I think it is highly improbable that a man shooting in the hurry that these men must have been shooting should, if a cartridge misfired—probably he would not know whether it misfired or not in the excitement—he would simply pull the bolt back and that would throw the cartridge somewhat off to his right and rear and thrust his bolt home again and try another cartridge. It seems incredible to me that he would make two efforts to fire one cartridge under those conditions.

Q. You speak of throwing the cartridge out. When the bolt is pulled back after the cartridge has been exploded, the shell is thrown out?—A. Yes, sir.

Q. About how far is that shell ordinarily thrown out of the gun?—A. During rapid firing, when the bolt is brought back with considerable force, that cartridge shell will go from 6 to 10 feet to the right and rear.

Q. If a man be standing with a gun, firing it in that way, say he would fire it a half a dozen times, and if he should hold the gun in practically the same position all the while, would the shells all go to the same place, or would they be found scattered about in different directions?—A. There would be a certain amount of scattering. They would not strike the same place.

Q. If you were to fire seven cartridges from one of these high-power Springfield rifles at a given point, where would you expect to find the empty shells with reference to the point where you stood

when you fired?—A. If the firing was done rapidly, I would expect to find them scattered about from 6 to 10 feet in my right and rear.

Q. Would it be natural, or in your judgment would it be possible, if seven cartridges had been fired out of one of these high-power Springfield guns by a man standing all the while in the same position, for all those to be found within a space, say, not more than 10 inches square or 10 inches in diameter, if it were a round space that they covered?—A. I suppose such a thing might be possible, but it is in the highest degree improbable.

Q. Now, if there were seven shells fired out of one of these guns from the same point, how many clips would you expect to find in that same locality?—A. Two.

Q. Not more than two?—A. No, sir.

Q. There are five of these shells to each clip?—A. Yes, sir.

Q. Five cartridges, and five shells after they are fired. Now, if you were to find seven empty shells and six clips, or five—I put it that way to meet a discrepancy in the testimony—lying, so to speak, in a bunch, covering a space circular in form and not more than 10 inches in diameter, would you think they had dropped there from the firing of a piece or had they been put there?—A. The clips and shells together in this same radius?

Q. Yes; all together, and all within a space not more than 10 inches in diameter.—A. When the magazine of the rifle is loaded from a clip, the cartridges are pushed down, the clip remains standing there, and the bolt being thrust forward, the clip falls almost at your feet, not near where the shells would naturally go. I should think that shells and clips found under the conditions you describe had been put there.

Q. Have you ever in your experience seen such a thing as that occur, that the clips and the shells would all fall practically in a bunch like that?—A. No, sir.

Q. How would you account for finding six clips or five clips, as the case may be, present with seven shells?—A. I don't think I could account for it, sir.

Q. Except upon the theory that they had been put there?—A. Yes, sir.

Q. That would not occur, in your judgment, from natural firing?—A. No, sir.

Q. In this report they mentioned nine of these empty shells which they say bear evidence of having been inserted into a service rifle more than once. Can you tell us what is meant by that and what that indicates?—A. No, sir; I don't know. That is not clear to me what they mean there.

Q. I will ask you whether or not on the target range it is a usual thing for the call to cease firing to be sounded after a cartridge has been placed in the chamber, but before it has been fired?—A. Yes, sir; very often during a rapid fire, during a skirmish fire.

Q. That happens very frequently?—A. Yes, sir.

Q. I will ask you what, when the call to cease firing is sounded, the soldier is required to do as to the cartridge that is in his piece and not fired?—A. During rapid fire, if he has not fired all his cartridges, he simply loses that shot, and the cartridge is returned to the cartridge box. On the range, during the skirmish firing, when they get the last range, and "cease firing" is sounded, the men are

inspected by commissioned officers, and for any cartridges found unfired they have a certain amount deducted from their score.

Q. In either event the cartridge is removed from the piece, is it not?—A. Yes, sir.

Q. Taken out?—A. Yes, sir.

Q. Then if the cartridge be afterwards used it would bear evidence of having been used more than once in a service rifle?—A. Yes, sir.

Q. And cases of that kind are constantly happening on the range, are they not, where they are target firing?—A. Yes, sir; they are very common.

Q. In your judgment, as one experienced in the handling of these guns, would it occur to a lot of people going out and engaging in a shooting affray that they would insert the same cartridge more than once into the same gun or a different gun?—A. No, sir.

Q. If, therefore, these shells bear this evidence, as this report shows they do, that would indicate to you what?—A. That these cartridges had gotten these imprints at Fort Niobrara.

Q. That is what you think, knowing the history of the guns?—A. Yes, sir.

Q. Now, looking over the testimony you gave before the Penrose court-martial, I see that you made a statement about meeting the scavenger, Tamayo, that night, and also the sentinel, Howard. Can you tell us here where and under what circumstances you met them and at what time? First as to the scavenger; keep them separate.—A. The scavenger I interviewed. He was in the rear of the west end of my company barracks. Major Penrose was there at the same time.

Q. About what time was that?—A. I can not be entirely clear about that, but I believe it was after Mayor Combe had come in and gone again.

Q. But you saw him there that night?—A. Yes, sir.

Q. Did you hear him make any statement as to where he was when the firing commenced?—A. Yes, sir; I questioned him about that, and he told me that he was in the rear of B Company, in the rear of about the west end of B Company, and that the first shot or shots that he heard were from outside the wall.

Q. Now, where did you see Howard, the sentinel, and under what circumstances?—A. After I came back from the patrol of the town my men were sitting about on the grass near the gate and the east end of my barracks. I interviewed this man Harris on his post, about opposite the interval—

Q. You mean this man Howard; you said Harris?—A. Yes, sir; Howard, between B and D on the parade ground side.

Q. Did he tell you anything about the firing, when it commenced, and where it was located?—A. He said he was on that portion of his post between the line of barracks and the garrison wall and about opposite the interval between B and C companies and that this firing commenced outside the wall, and he first thought they were shooting at him, and he became frightened and ran through that interval between B and C companies to the parade ground side and there gave the alarm, calling the guard and discharging his piece three times.

Q. He told you that that night immediately after the occurrence?—A. Yes, sir.

Q. That statement was afterwards put into an affidavit which was made before you as a summary court?—A. Yes, sir.

Q. There was another affidavit which has been put in evidence here, made by Howard, in which he mentioned all the facts contained in the other, except one. He said nothing about firing his piece. Was that also sworn to before you?—A. He took two affidavits before me. One was for the commanding officer, which I took in the adjutant's office; the other was to complete the affidavits of my company.

Q. Can you tell how it happened that in one of these affidavits he omitted to state that he had fired his piece three times?—A. No, sir; I can not explain that.

Q. Was that or not the fault of the soldier or was it the fault of the transcriber?—A. Well, with these men, the usual way of taking an affidavit with us was to have the man tell his story and then put it into some kind of shape and have him read it over, and then if that is what he wants to say let him sign it then.

Q. Let him sign it?—A. Yes, sir.

Q. In one of these affidavits he states that he fired his gun three times. That would not have been put in there if he had not made that statement?—A. No, sir.

Q. He must have made that statement in order to have it put in the affidavit?—A. Yes, sir; he made that statement to me that night before he took any affidavit at all.

Q. Were both of those affidavits made up from the same statement?—A. No, sir; I think not. I called him into the adjutant's office the next morning and took his affidavit then. Then, in the course of taking the affidavit of every man in my company, he just came in in his regular order. The thing was done alphabetically as far as possible.

Q. Did he ever vary his story in regard to what occurred that night, to your knowledge?—A. No, sir.

Q. He never said he did not fire his piece three times?—A. Not to my knowledge, sir.

By Senator SCOTT:

Q. Captain, did you think that night that your company or the post was being attacked when you ran across the parade ground?—A. Yes, sir; I did.

Q. And the next morning what was your impression as to who had done the firing?—A. Until Captain Macklin found those shells and clips there was no doubt in my mind at all that the civilians had done the firing. I did not think that any of my men or the men of the battalion were mixed up in the thing.

By Senator FORAKER:

Q. Did you learn from Captain Macklin or anybody else the position in which he found those shells on the ground in relation to each other?—A. Not until very much later, sir.

By Senator SCOTT:

Q. Captain, as I understand you, then, after the finding of these clips and shells, you thought that it was more than likely or possible that some of the men had done the firing up of the town?—A. My opinion after the finding of these shells and up to until a comparatively recent date was that some of the rougher element of Brownsville had started this shooting, and I was inclined to believe, on the evidence of these shells and clips—I had no time to make any exam-

ination myself—that some of our men had done some shooting in reply to the trouble started by the Brownsville people.

Q. Now, what is your opinion, from the evidence and all the information you could gather from the men of your company and all the other companies—what is your impression now as to who did the shooting?—A. My opinion now is that the shooting was done by some of the rougher element of Brownsville, and that none of the men of our battalion did any shooting down there except the sentinel on post firing those three shots.

By Senator FORAKER:

Q. Captain, I hand you now the property book of Company D and call your attention to the fact that at pages 1316 and 1317 of our hearings it is shown in the report of the experts that when the rifles of Companies B, C, and D were taken to the Springfield Arsenal and there examined certain rifles belonging to Company D appeared to have been fired and not cleaned. Can you tell from an examination of your property book whether any of the rifles that had been assigned to your men were so reported? I call your attention in that connection to rifle No. 49643. Look under the name of James Duncan and see whether that rifle was returned to him.—A. No. 49643; yes, sir; that was the number of his rifle.

Q. Now look at the name of the cook, Dade, No. 42695.—A. No. 42695; yes, sir; that is his rifle.

Q. Both of those rifles are reported as foul bore; had been fired and never cleaned. Can you account for their being in that condition?—A. After we reached Fort Reno we had, in September or October, I forget which, what is called the supplementary target season.

Q. You had that in both months, did you not?—A. No; I don't think that took more than a couple of weeks.

Q. I have a memorandum here which shows that there was that kind of firing.—A. We had post competitions. This is a part of the regular rifle instruction. They call it the supplementary season, and I think it was during the month of October when we had men of certain low classes in marksmanship, and recruits, taking a shorter course on the target range. Then in addition to that we had, I believe, two or three—I think three—post rifle competitions, and any gun that was found to exhibit signs of having been fired and not cleaned that is when it must have happened, either during that supplementary season or during one of the competitions.

Q. That would apply to guns that were assigned on the night of August 13, and also to guns which at that time were unassigned but in the storeroom, would it not?—A. Those guns which were not assigned on the 13th of August, but which were shown to have foul bores when examined for this report, were very probably in the hands of recruits for this supplementary season.

Q. At any rate, you know that they were not in that condition the morning after the firing, for you examined them?—A. Yes, sir; I know that.

Q. Now, there is a footnote following this statement as to the guns of Company D, found at page 1317, which is to this effect:

NOTE.—All of the above serial numbers for the rifles of Company D were compared with the number on the retained copies of shipping cards, and found to agree with one exception, i. e., where the shipping card called for Serial No.

54405, the rifle corresponding bears the number 52495. Rifle 52495 was issued to Company I, Twenty-fifth Infantry. A search through the serial numbers of the A Company rifles, Twenty-fifth Infantry, failed to reveal the whereabouts of 54405.

Can you tell us anything about that, in order to straighten out the confusion that there seems to be about those two rifles?—A. What was the number of the first rifle?

Q. The first rifle is 54405. It says that the rifle corresponding bears the number 52495, and 52495 was issued to I Company.—A. Rifle 54405 is noted here in the book as being in the hands of Lieutenant Clark, who was during part of the target season our second lieutenant. The other rifle, 52495, is noted here as being in the hands of Lieutenant West, who was my second lieutenant during another part of the same target season, and as I recall it when Lieutenant Clark was exchanged from my company to I Company, and Lieutenant West came to my company, he asked me if he could not keep his own rifle that he started his target practice with for the completion of the season.

Q. That is, Lieutenant West came to you from another company?—A. Yes, sir; from I Company, and the probability is that Lieutenant West brought his I Company rifle into D Company and completed his target season there, and that is the way the exchange was made. No. 54405 is, without doubt, in the hands of some one in Company I.

Q. However that may be, if those rifles or either of them were in the hands of any of your men that night, they were examined and found to be clean?—A. Yes, sir.

Q. And if any of them were afterwards dirty, it was because of the target firing in which your company engaged at Fort Reno, as I understand it?—A. That is my opinion.

Senator FORAKER. I believe that is all.

By Senator OVERMAN:

Q. Senator Foraker asked you if you had been shooting up the town—if you had been engaged in it. Did anybody ever charge you with that?—A. Not directly, sir.

Q. Indirectly?—A. No, sir; neither directly nor indirectly.

Q. Did anybody ever charge that any of the officers were in that shooting?—A. Well, no; there has been no charge made, but those people in Brownsville are convinced that we know all about it, and a large number of them think that Captain Macklin was implicated in the actual shooting.

Q. There has been no charge against you?—A. Except that I was classed as being one of the officers there who must know about this thing.

Q. So you think you are resting somewhat under the charge of being in that shooting, or in conspiring about it?—A. No, sir; not a charge that is worthy of the name.

Q. But you do think that there is a suspicion that you are in the conspiracy?—A. Undoubtedly a number of people in Brownsville and vicinity think that we knew about it, and that we were implicated in the actual shooting, that we knew about the thing before, perhaps, but surely afterwards.

Q. Suppose 5 men at the mouth of the alley in front of the wall

should load Springfield rifles; how many clips would you expect to find right there?—A. There would be 5 clips, more or less scattered.

Q. Suppose 2 men shot 7 times; what would you find there?—A. I don't think I caught that exactly.

Q. You say if 5 men had loaded their guns there, you would expect to find 5 clips there?—A. Yes, sir.

Q. And if 2 men were shooting their rifles and they shot 7 times, what would you find there?—A. You would find 7 shells.

Q. When you told Senator Foraker that you concluded in your mind that because there were 5 clips and 7 shells that somebody had put them there, do you not change your opinion about that now that you think of it a little?—A. No, sir.

Q. You tell me it is possible for 5 men to have loaded their guns there, and 5 clips to be there, and there may have been 7 shots, and you found 7 shells. Is not that possible?—A. You would find 5 clips and 7 shells.

Q. So that might have happened?—A. But you would not find them within a radius of 10 inches.

Q. He did not ask you about the radius, did he?

Senator FORAKER. I asked him about the diameter.

A. I beg pardon, the diameter.

By Senator OVERMAN:

Q. Not in that connection. He may in another connection, but he did not ask you in that connection.—A. I think he said under the existing conditions.

Q. So you are basing it on something else you heard about bullets being found there?

Senator FORAKER: I did put the question just that way.

By Senator OVERMAN:

Q. Then you are basing your opinion upon what somebody else said about the radius in which the bullets lay, are you, when you make that statement?

Senator SCOTT. You mean shells, not bullets.

By Senator OVERMAN:

Q. Shells; yes, sir.—A. That is the only opinion I have upon it; the only fact that I have to base an opinion of that sort upon.

Q. But I ask you the question now, without regard to the radius.—A. Yes, sir.

Q. How would you account for those bullets being there?—A. Bullets?

Q. I mean shells and clips.—A. If there were five clips and seven shells, it would indicate that five guns had been loaded from the clips—that is, the magazines of five guns had been loaded—and that seven of those cartridges had been fired.

Q. I thought so. Suppose one man should hold his gun in the same position and shoot five times; where would the empty shells be?—A. The empty shells would be from 6 to 10 feet to his right and rear if he was firing rapidly.

Q. Suppose he was not firing rapidly.—A. Then they would not be so far. The shells would not be ejected with such force and would not go so far.

Q. Suppose he fired slowly and deliberately?—A. They would go probably 2 or 3 feet to his right and rear.

Q. That is only guesswork, isn't it?—A. Not altogether, because I have been through a number of target seasons.

Q. Did you ever see a man stand in the same position and shoot that many times and notice about the shells?—A. Have I ever seen a man shoot five times?

Q. In one position.—A. Yes, sir.

Q. Deliberately and slowly?—A. Well, not slowly.

Q. Slowly?—A. No, sir; not slowly. I never did look with reference to seeing how the shells would lie on the ground. When we first got those rifles of course they were a matter of a good deal of interest, and we all noticed the force with which the shells were ejected.

Q. That was in firing, was it?—A. In rapid firing and in slow firing, both.

Q. Did you notice the shells on the ground?—A. I can not say that I ever did, sir; not particularly.

By Senator SCOTT:

Q. Suppose that a man were firing as rapidly as you heard the firing that night—we will not say that it was fast or that it was slow, but as you heard the firing that night—and it was from a Springfield rifle, how far would you expect the shells to be found from where the man stood?—A. From 6 to 10 feet to his right and rear.

Q. According to the firing that you heard that night?—A. Yes, sir.

By Senator OVERMAN:

Q. Could you tell that night how rapidly any one man was firing?—A. No, sir.

Q. So you don't know whether those men were firing rapidly or slowly?—A. There were either a great many men or else they were firing rapidly.

Q. There might have been a great many men firing, some firing slowly and some firing rapidly?—A. That is possible; yes, sir.

By Senator SCOTT:

Q. Captain, from the first shots that you heard when you left your quarters until the firing had ceased, how long an interval would that be, to the best of your recollection—how many minutes?—A. I should say about five minutes.

Q. Until the firing was all over?—A. Yes, sir; that is just an estimate, to the best of my recollection.

Q. Then, to the best of your recollection, if there were from 100 to 150 shots fired there would have to be a good many men firing, or else they were firing rapidly, would there not?—A. Yes, sir.

By Senator OVERMAN:

Q. Out on the target range with these rifles you say some of them missed fire?—A. We had a good deal of trouble when we first got the guns; yes, sir; and occasionally it would happen afterwards.

Q. When a man attempted to fire and the shell failed to fire, what became of that shell right then at that time?—A. If it was during the part of the season of the target course called the instruction practice, when the score that a man makes does not go on his record and the

practice is simply for the purpose of instruction, it was the general rule to have him try it again—just cock his piece again and try that same cartridge at once.

Q. Was that so in every instance?—A. I don't know that it was so in every instance; no, sir.

Q. And in all the firings?—A. Do you mean in the record practice, too?

Q. Yes.—A. No; it was not usual in the record practice.

Q. What did they do with it in the record practice?—A. Well, sir, it was generally turned in to the quartermaster-sergeant again or it may have been thrown away.

Q. Was it possible for a soldier to pick that up and put it into his pocket and carry it away?—A. He could not; no, sir; not at that time.

Q. At any time could he get hold of that cartridge?—A. He would not be very apt to.

Q. Would it be possible?—A. Yes, sir; it is possible to find cartridges on nearly every target range in the country.

Q. Is it not often the case that soldiers have surplus ammunition in their lockers?—A. I can not speak, sir, for any other organization but my own, and I know of no instances in my company.

Q. Did you examine their lockers?—A. I made, I suppose, half a dozen inspections since this Brownsville affair started of my men's belongings.

Q. Since this affair?—A. During the night at different hours there were several occasions when we were ordered to make a thorough search.

Q. That is, since the affair. I am talking about prior to that.—A. In none of those inspections which I was called upon to make, and which were absolutely thorough, did I ever find any extra ammunition.

Q. How about prior to the shooting?—A. I never made any special inspections for extra ammunition prior to that.

Q. Whose duty was it to make the inspection?—A. It is not customary to.

Q. You made no inspections of those lockers, and therefore you do not know what was in them prior to that?—A. The lockers are inspected every Saturday morning by the company commander.

Q. The company commander?—A. Yes, sir.

Q. And you did not make the inspection?—A. Yes, sir; but I did not inspect with a view to finding extra ammunition.

Q. So, although you were company commander, you did not know whether there was extra ammunition in the lockers or not?—A. It is possible that some of the men did have a few rounds.

Q. Then I understand you to say that it is possible for a man to have brought a cartridge back from Niobrara in his pocket or in his locker, a cartridge that had failed to fire—you say that is possible?—A. Why, yes; it is possible.

Q. Now, Captain, let us go back. What time was it you went to sleep that night?—A. I can not tell you the exact minute at which I went to sleep, but as I recollect it I went upstairs about twenty minutes of 12.

Q. I do not want you to give the exact minute, but I just want to know about the time.—A. It must have been about midnight, or per-

haps two or three minutes before, because I did not go upstairs until twenty minutes to 12, and I went right to bed.

Q. Do you know how you were wakened?—A. No; I just simply became suddenly awake; that was all.

Q. And when you awoke, you heard, as I understood you, two revolver shots?—A. I heard two shots which I have no doubt, and had no doubt then, were revolver shots.

Q. If I understand you, they were away up there in the edge of the reservation, above the guardhouse—up in that direction?—A. Yes, sir; up in that general direction; that is the way they sounded to me.

Q. When you heard those shots, did you immediately get up?—A. Yes, sir.

Q. Was it unusual? Did that excite your attention and arouse you?—A. The first two shots did not excite me at all; but it is customary for an officer if he hears any shooting in the vicinity of the post to get up at once.

Q. Was it an unusual thing to hear revolver shots in that section of the town?—A. I don't know, sir; I had only been there for a short time. I was not familiar with it.

Q. For the time you had been there was it unusual?—A. The only other shooting that I had ever heard myself was about, I should say, a week previously; there was some shooting across the river.

Q. Was that at night or in the daytime?—A. That was at night.

Q. Did you get up then?—A. I did not. That was in Mexico.

Q. Did you ever hear any other shots before that time in the general direction in which you heard those two?—A. You mean previous to this night?

Q. Yes.—A. No, sir; that was the first shooting I had heard over there.

Q. That was unusual, while you were at Fort Brown, to hear any shots while you were on the reservation?—A. Yes, sir; during my stay there.

Q. When you heard those two pistol shots you got up immediately?—A. Yes, sir.

Q. Dressed hurriedly?—A. Yes, sir. I only put on very few clothes over my pajamas and put on a pair of shoes.

Q. Why were you in such a hurry if there were only two pistol shots out in town?—A. If I was not going to be in a hurry the thing might be all over. I did it just upon general principles; that was all.

Q. For the sound of two pistol shots?—A. Oh, well, I was struggling into my trousers. These other shots followed afterwards.

Q. The other shots were what kind of shots?—A. Five or six revolver shots.

Q. The same character of shots as the first two?—A. As the first two; yes, sir.

Q. And they were coming nearer the barracks?—A. Apparently; that was the way they sounded to me.

Q. Was your door open and window up?—A. Doors open and windows up; everything was wide open; yes, sir.

Q. You were sleeping there in the quarters with your family?—A. Yes, sir.

Q. Did it arouse your family?—A. It did.

Q. You hurried, then; put on your trousers and hurried down to your company?—A. Yes, sir.

Q. Were those the only shots you heard before you started out of your quarters?—A. No, sir; the rifle firing had begun just about as I was coming out of my quarters, or as I was coming down the stairs. I can not be positive as to that, but they followed very shortly.

Q. As I understand you, they were outside of the wall in the town, and about the Cowen alley?—A. I don't think I attempted to locate those definitely. That is where they appeared to be to me.

Q. That is where they appeared to be, just outside of the wall, about the Cowen alley—that was your impression?—A. Yes, sir; about that general direction.

Q. Just where those shells were found?—A. I should say so; right about in that vicinity.

Q. They were from high-power rifles?—A. That is what it sounded like to me.

Q. Did you hear any shots between B and C quarters as you went over there?—A. Inside the post?

Q. Inside the post.—A. I did not hear any.

Q. You did not hear them?—A. No, sir.

Q. Did you hear any horse running away?—A. I heard no horses.

Q. You did not see Tamayo, the scavenger?—A. I heard his mule and his cart.

Q. You heard the mule?—A. Oh, yes; I could hear that sanitary dump cart.

Q. Was that mule running pretty rapidly?—A. Well, I don't know; not especially so. It did not impress me at the time. I simply had an impression of the noise that the cart made in moving off; but that was a matter of no importance to me and did not impress me.

Q. It made a good deal of fuss?—A. Yes, sir; that cart makes considerable noise as it moves.

By Senator FORAKER:

Q. There was an iron body on that cart?—A. Yes, sir.

By Senator OVERMAN:

Q. Iron flaps?—A. Iron flaps.

Q. I suppose that made a great noise as it went across. Which way was that driver of the mule going—in what direction?—A. From my own knowledge I know nothing of it. It was a very dark night. I could not see him. I could hear the noise the cart made, but which way he was going, from my own knowledge, I know nothing more than that I heard the sanitary cart.

Q. Can you tell me from what direction that noise was with regard to barracks D?—A. I should not attempt to locate that, sir. I came from quarters No. 4 on the map, which should be 3, diagonally across.

Q. Show me exactly how you came there, if you please, Captain.—A. This is my quarters here, and I came in as straight a line as possible from this point, at about where my front door was, to this point, which is about the center of my company barracks.

Q. Where was your company then?—A. They were in the barracks, with the exception of one or two men who had begun to fall out on the company parade ground, which is right along here [indicating] an asphalt walk.

Q. What was the first thing you did when you arrived there?—A. The first thing I did was to go in the center door of the barracks, and there I met my quartermaster-sergeant, Green.

Q. What did you do—did you order out your company?—A. The men were already coming downstairs, and these men that I mentioned had started to fall in at the usual place for the formation of the company.

Q. The usual place was right in front of barracks D?—A. Yes, sir; to the left of the center, on the asphalt walk, there.

Q. Did you see any man with a cart there in front of D while you were forming your men or after you formed your men?—A. I did not notice him, for it took me all my time to get the men straightened out and to see that they fell in properly.

Q. You could not tell me the general direction of the noise of that cart?—A. Except as I came across from my quarters over; it was off in that general direction somewhere.

Q. Coming from the administration quarters or coming down to barracks D, you heard the mule running?—A. No; I do not think that I said I heard the mule running.

Q. I beg your pardon if I misunderstood you.—A. I said I heard the mule, and from the impression that I got, that he was moving rather rapidly—that is, the cart made a sufficient noise to indicate rapid motion.

Q. You did not hear the mule; you heard the cart. You knew that it was in rapid motion; that was your impression?—A. It sounded so; yes, sir.

Q. Could you tell the direction in which that cart was going—whether out toward the town or out toward the administration building, or out toward barracks D?—A. No, sir; I could not attempt to state the direction the thing was going in, because it was absolutely unimportant to me. It did not impress me at all, the mere fact of that sanitary dump cart moving around the post.

Q. After you had your men in line you ordered the sergeant to call the roll?—A. No, sir.

Q. What did you do?—A. I reported to Major Penrose that my men were all out and that my company was formed.

Q. He ordered you then to call the roll, did he?—A. No, sir.

Q. Did you call the roll?—A. After we had taken our position in rear of the wall then we had roll call.

Q. You sent for a light, did you, and you found all present or accounted for?—A. Yes, sir.

Q. There were two men, I understood you to say, out on passes?—A. Yes, sir.

Q. Do you know who those men were?—A. There was one man named Walter Johnson and the other man was Hawkins, who was then a corporal.

Q. Did you see them that night?—A. No, sir.

Q. Do you know what time they came in?—A. Of my own knowledge I do not. Captain Macklin, who was officer of the day, told me Hawkins came in about 5 o'clock the next morning.

Q. Had you issued passes to them?—A. Yes, sir.

Q. Do you know where they had been that day?—A. No, sir. I do not know, sir, only what the men told me after they came back.

Q. You did not inspect any guns that night?—A. No, sir.

Q. You inspected the guns the next day?—A. Yes, sir.

Q. About 6.20?—A. That was the time when the company was first formed, and I began the inspection immediately, so that it was about 6.20.

Q. What time was it that you ordered your men into quarters, about what time of night, that morning?—A. About 3 o'clock, I should say.

Q. Where did you then go?—A. After I inspected the armracks and satisfied myself that all the guns that should be in the racks were there, I then went to my personal quarters.

Q. Where your family were?—A. Yes, sir.

Q. Captain, I understood you to say that it was impossible for the men to have cleaned their guns that night?—A. I said that it was impossible to clean a gun while it was locked in the gun rack.

Q. It was not impossible for a man to clean his gun between 3 and 6 o'clock, was it?—A. I don't think I quite understood that question.

Q. Was it impossible for the men to have cleaned their guns between 3 and 6 o'clock?—A. It was if the guns remained locked in the gun racks.

Q. Is it possible that the man in charge of quarters could have unlocked the gun racks?—A. Yes, sir; he had the keys.

Q. He could have unlocked the gun racks, and a man could have gotten his gun?—A. Yes, sir.

Q. And could have cleaned it?—A. Yes, sir.

Q. So it was possible for them to have cleaned their guns that had been fired, if they had fired them?—A. If the racks were opened by the man who had the keys, yes, sir, between 3 and 6 o'clock in the morning.

Q. If the quartermaster-sergeant or sergeant in charge of quarters had been in the conspiracy, they had ample opportunity to have gotten a light, opened those racks, and cleaned every gun that had been fired?—A. I don't think it would have been possible to have had a light in the barracks that night. There were two officers, if I remember correctly—at least one who was continually on the alert—and any such thing as a light of sufficient brilliancy to enable a man to clean his gun would certainly have attracted his attention.

Q. What officers were on the alert?—A. Captain Macklin, who had his entire company on guard, and I think he had one officer detailed to assist him. He had no lieutenant with him then, but I am not positive about that.

Q. There was a good deal of excitement there that night, was there not?—A. Not after the shooting had quieted down, there was no further excitement.

Senator WARNER. There is no evidence, that I remember, of any officer being detailed to assist Captain Macklin.

A. I don't remember about that.

Senator FORAKER. No; Lieutenant Grier had been, but he was detailed on other duty.

By Senator OVERMAN:

Q. Was it impossible for a man to have cleaned a gun in the dark?—A. A man can try to clean his gun in the dark, but it is doubtful if he would be able to clean it so it could not be detected in daylight.

Q. You think a man could not take that thong and take a rag, or a piece of his shirt, and run it in through the end of the gun and pull it out—what do you call the part where the chamber is—the breech?—A. Yes, sir.

Q. To put the thong in the breech, tear off a piece of his shirt, pull it through, take the oil in the gun and clean it so it would pass inspection, to do that in the night?—A. It might be done, but I doubt it.

Q. Well, I say, it is possible?—A. Yes, sir.

Q. That could be done so as to pass inspection?—A. I can not state that it could be done. It might be done.

Q. What was the method of your inspection that morning? Did you take every gun?—A. Yes, sir.

Q. Into your hands?—A. Yes, sir.

Q. Look down the bore?—A. Yes, sir.

Q. Did you open the chamber?—A. Yes, sir.

Q. Look into the chamber?—A. Yes, sir.

Q. Then, after you left there, I understand you went into the storehouse and looked at the guns that were in the chest?—A. Yes, sir.

Q. How many guns did you have there?—A. You mean the total number of guns?

Q. The total number of guns issued to your company.—A. I had 70. One of these guns was at Fort Sill, which left me 69 guns at Fort Brown.

Q. How many chests did you open that night and look into?—A. I don't recall whether they had the extra guns all in one chest, or whether they were in two different chests.

Q. How many guns would each chest hold?—A. Ten.

Q. So that if there were more than 10 guns in there, there must have been more than one chest open?—A. Yes, sir; they could not get more than 10 guns in one arm chest.

Q. Did you take up every gun that was in that chest and examine it carefully the next morning?—A. Yes, sir; I inspected each gun the next morning.

Q. You took each gun out of the chest?—A. Yes, sir.

Q. You took it in your hands?—A. Well, I will not say that I took each gun in my hands, because their condition indicated to me beyond a doubt that those guns had not been fired. They were covered thickly with cosmoline.

By Senator SCOTT:

Q. As they had come from the arsenal, or as they had come from Niobrara?—A. As they had come from Niobrara, sir.

By Senator OVERMAN:

Q. So you did not take every gun out of that chest and look down the bore and look at the chamber to see whether it had been fired?—A. I will not be positive; I can not recall, now.

Q. When you think about it, refreshing your recollection, are you not positive that you did not do it?—A. No, sir; I am not positive that I did not do it.

Q. But you are not positive that you did?—A. No, sir.

Q. So there might have been some guns in there that had been fired and you not know it?—A. I do not think so.

Q. Well, I know; I do not ask you what you thought about it. I

ask you if it would be possible that there were some guns in there that had been fired?—A. In the arm chest?

Q. Yes.—A. It does not appear to me, sir, from the inspection of the guns that I made; the inspection I made thoroughly satisfied me.

Q. You are not positive that you examined every gun?—A. I examined every gun. I am not positive that I took each of those guns that were in the arm chest into my hands.

Q. Is not the only way you could examine them to see whether they had been fired or not by taking the gun in your hands, looking down the bore, and looking in the chamber?—A. It would be for a gun that was in the hands of the men, but for a gun that was in practically a packed-up condition the appearance of the gun would indicate.

Q. Didn't you conclude, by the appearance of the guns in the chest, and the way they were packed and the cosmoline on them, that those guns were all right and had not been fired?—A. I was sure of that, sir.

Q. Is that the way you made up your judgment?—A. From my inspection of those rifles.

Q. Was that the kind of an inspection you gave?—A. You mean for those rifles there?

Q. In the chest.—A. As I said before, I may have examined each of those rifles the same as I did the others, but I can not be positive that I took each gun in my hands and looked down the bore.

Q. Suppose you did not take each gun and look down the bore and examine it as you did the guns in the men's possession, could it not have been possible that one of those guns in there might have been taken out and fired?—A. I do not think it could, sir; there were too many other conditions.

Q. What conditions?—A. They were in the arm chest, in the first place. Then they were locked in the storeroom. The quartermaster-sergeant had the key to the storeroom in his possession. The guns showed clearly to me that they had not been taken out of that chest since they were shipped from Fort Niobrara, and it does not seem to be possible that any of those guns had been fired.

Q. Is that the reason you are giving me now that you made up your mind that night?—A. I did not inspect the rifles that night.

Q. That morning?—A. There are a number of other details in connection with it, as I stated in the direct examination.

Q. What other details? I would like to have them.—A. I was going to say that there are a number of minor details connected with this inspection of arms and verification of ammunition, that being merely a matter of routine that we have been doing for a great number of years. This inspection of rifles is not anything new to us; and how we did this and how we did that, there are a number of those things I have forgotten. I can only be positive as to the results of these inspections.

Q. There are no other details other than those you have given me?—A. The details are just what slip my memory, to a large extent.

Q. I understand you also inspected the ammunition that morning?—A. I verified the ammunition that morning; yes, sir.

Q. You had the men stand along the beds in their barracks—right in front of them?—A. Yes, sir.

Q. Each man?—A. Yes, sir; that is my recollection.

Q. As you came to each man did you count the cartridges in his belt?—A. It is not necessary to count each cartridge, because they were displayed so that I could see the four full clips. If a man has four full clips he has 20 cartridges without any doubt, and one cartridge missing from a clip is perfectly evident at a single glance. So it is not necessary to count each individual cartridge. The men kept their cartridges in those clips, and each man was supposed to have four clips.

Q. Each man had four clips, and you counted four clips in each man's possession, did you?—A. Well, there were one or two men—there was one man named Gill, who, as I recollect it, had no ammunition at all, but I knew about his having lost his ammunition on the way down, either just before leaving Niobrara or just on the way to Brownsville.

At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The recess having expired, the committee, at 2 o'clock, resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Hemenway, Warner, Pettus, and Overman.

TESTIMONY OF CAPT. SAMUEL POWELL LYON, U. S. ARMY—
Continued.

Capt. SAMUEL POWELL LYON, U. S. Army, a witness previously sworn, being recalled, testified as follows:

By Senator OVERMAN:

Q. Captain, before the recess I believe I was asking you about the inspection of ammunition. I asked you if you found any ammunition short. You were going on to tell about a man by the name of Gill, as I understood it, who was short of ammunition, I understood you to say. Where did he lose his ammunition?—A. I think it was at Niobrara.

Q. Before he left?—A. I think it was just before he left, after our other ammunition was packed up; and for that reason he could not be issued the 20 rounds which he should have had.

Q. Who else did you find?—A. I do not recall any others.

Q. Are you certain that there were no other soldiers short?—A. As I said before, at this time, eight months afterwards, the only thing that I can be certain of is that my inspection at that time satisfied me that there was no shortage.

Q. You are not positive, though, that you did not find some men who were one or two cartridges short?—A. I am quite positive I found no man or men with one or two cartridges short. The sentinel on post expended three cartridges. That was Howard, of my company, but his ammunition was inspected by the officer of the day and not by me. He was still a member of the guard when I made my inspection.

Q. Do you remember how many men were present when you made your inspection that morning?—A. The men who were not present, their ammunition was checked.

Q. By whom?—A. By me.

Q. Excepting the guard?—A. Excepting the guard. That is always understood. Nobody has any control over a man on guard except the commanding officer and the officer of the day.

Q. So you did not inspect the ammunition of the guard?—A. No, sir.

Q. Including Howard?—A. No, sir.

Q. Did you inspect the ammunition of the cook, Dade?—A. Yes, sir.

Q. Was he in line that morning up in the barracks?—A. He was in line with the company. I sent and got all the men that I possibly could get, even those who did not ordinarily turn out for drill, and had them turn out with their guns.

Q. Do you know whether the men who were out on pass that morning were in line for inspection?—A. I could not be positive, sir. I think they were, but I am not positive. Hawkins surely was, because he came in about 5 o'clock in the morning.

Q. Did you see him or get that information from Captain Macklin?—A. As I stated, Captain Macklin informed me that he had passed Howard through at about 5 o'clock that morning.

Q. It was subsequent to your inspection that he told you that?—A. I don't know whether it was before or after my inspection.

Q. Did you check the men that morning to see that they were all there?—A. Every formation is followed by a roll call, and every man must be present or accounted for.

Q. When you had the men lined up at their bunks in the barracks that morning, was the roll call then?—A. No, sir; the roll call was before that, when the company was formed outside.

Q. When the men were lined up in the barracks at their bunks, was anything done then to verify the men before you began to inspect for ammunition?—A. I inspected each man's ammunition as I came to his bunk. If a man was absent, I would examine his belt to see that his ammunition was in its proper place.

Q. I did not ask you that. I asked you if you counted the men that morning?—A. After they took their places at their bunks?

Q. Yes, sir.—A. No, sir.

Q. Was there any calling of the roll after they took their places at their bunks?—A. No, sir.

Q. As I understand you, the calling of the roll was on the outside?—A. Yes, sir.

Q. So after they went upstairs there was nothing done to verify the men, as to every man being present?—A. There was no further verification after the first roll call.

Q. You supposed every man was in his place by reason of the fact that there had been a call of the roll on the outside?—A. Well, in the squad rooms each man's bunk has a card in a tin holder attached to the foot of it, with his name, his company number, and his rifle number on that side; so that if you come to a bunk where there is no man, you look at his name and find out this man's whereabouts. Now, if he is not there and not properly accounted for he is absent.

Q. Did you examine to see what men were absent from their bunks that morning?—A. That is the usual way, the way the thing is habitually done, in all inspections. On the Saturday inspection, if

you come to a man's bunk and there is no man there, you look at the card.

Q. I ask you if you did that that morning?—A. I presume I did, sir.

Q. You were ordered by Major Penrose to take your company and go on patrol. Did you take the entire company?—A. I took all the men that I had in line, as I have said, I think about 44 or 45 men.

Q. The entire company?—A. All that I had present; yes, sir.

Q. And you marched out of the gate and along the wall up to Washington street, as I understand it, and then down Washington street, then down Thirteenth over to Elizabeth street and back through Elizabeth street?—A. I will not be positive about what cross street I took between Washington and Elizabeth. I am not familiar with the town at all.

Q. Please tell me what position you occupied in regard to the company. Were you in the rear—did you march in the rear or in front of the company?—A. I marched at the head of the company, sir.

Q. At the head of the column?—A. Yes, sir.

Q. What other officer was with you?—A. There was no other officer with me.

Q. You were the only commissioned officer in the company?—A. Yes, sir.

Q. Marching at the head of the company?—A. Yes, sir.

Q. Did you see any people on the streets?—A. I met a few people over along Washington street there, and then I met Mayor Combe's brother, as I have already stated, and later I met Mayor Combe. When I met him my company was in the middle of the street—that is, in the roadway. There were a number of people on the sidewalk where I met Mayor Combe. He came out in the street to speak to me.

Q. Did the people seem to be excited?—A. They were quiet then, but Mayor Combe told me that he had just succeeded in dispersing a band of about 200 armed men who were headed toward the post.

Q. Did he tell you about the shooting up of the town?—A. He told me that the soldiers—this is merely the gist of what he said, I don't recollect his words—

Q. Substantially is all I want.—A. He told me that the soldiers had committed an outrage against the citizens of Brownsville, and had wounded this policeman and had killed this man Natus.

Q. What did you reply?—A. I don't remember my exact words, except that I told him, in substance, that I thought he was mistaken, that the shoe was on the other foot, and that we were the ones that had been shot up.

Q. That was what you told him?—A. Yes, sir.

Q. And then he accompanied you back to the post?—A. Yes, sir; he and his brother.

Q. And you met Major Penrose at the gate as you went in?—A. Just inside the gate; yes, sir.

Q. Did you go on conducting your company into the barracks, or did you stop?—A. My company was halted near the gate, along that roadway, and they remained there until about 3 o'clock.

Q. Outside the gate?—A. No, sir; inside.

Q. In the rear of the barracks?—A. Not in the rear, but along that roadway which runs between B and D Companies. There is grass *there, and the men sat about on the grass.*

Q. Did you hear any conversation, any words spoken between Major Penrose and Mayor Combe?—A. Only the first part.

Q. What was said, if anything?—A. As I recollect, he stated about the same thing to Major Penrose that he did to me. Then he and Major Penrose went off, and what they talked about I don't know.

Q. Did you see Mayor Combe after that at any time?—A. I don't think I did. I was busy with my company.

Q. Were you present at the administration building at any time when a delegation of citizens came there?—A. Yes, sir; I was there the next morning.

Q. State what took place then.—A. I think it was in the neighborhood of 10 o'clock that this committee—I should say of about 12 or 14 persons—came to the administration building, and Major Penrose had directed me to be present, and they came in. The chairman was Mr. Kelley.

Q. Did you know Mr. Kelley?—A. I just knew him in a business way. I had an account at his bank; that is all I knew him.

Q. He was president of the bank there?—A. Yes, sir; he was president of the First National Bank.

Q. Go on and state what took place.—A. Mr. Kelley made a speech, and then Mayor Combe made a speech.

Q. What did Kelley say?—A. Simply that the soldiers had done this thing, and that they wanted to find the guilty parties and have them turned over to the civil authorities. Mayor Combe, his remarks were about of the same general tenor.

Q. Did anybody else say anything?—A. Major Penrose made some remarks, and I also made a few remarks.

Q. What did you say?—A. I told them that from the speeches of Mr. Kelley and Mayor Combe they evidently did not appreciate the position of the officers at the post; that their manner was one of resentment toward us, and in order for us to cooperate successfully they must give us credit and understand fully that we were as anxious or more anxious than they were to find the guilty persons, if those persons were men of our battalion.

Q. Did Major Penrose tell them that they did not give the officers credit for that?—A. No, sir; that was the reason I asked the permission of Major Penrose to call their attention to this position that they had taken.

Q. Major Penrose made no criticism whatever of their actions?—A. No, sir; he made no criticism at all.

Q. Did you hear anything about their finding bullets—did they tell you that they had found bullets and bandoliers—I mean these shells and bandoliers?—A. These shells that Captain Macklin found had been found before they came in.

Q. I understand; but there had been some other shells found out in the town.—A. I think that that was mentioned. I am not positive. I think it was.

Q. After you had heard of the finding of the shells by Captain Macklin and the shells that were found up in town you were impressed, then, you said, with the fact that the shooting had been done by the men?—A. I don't think I put it in just that way. As I remember, I said that I thought that some of our men had done some shooting that night—not all the shooting, but some of it.

Q. Some of the shooting?—A. Yes, sir.

Q. You heard before that your men had not used revolvers?—A. I did not think they had. I do not believe they had.

Q. Coupled with the fact that you knew that most of this shooting was done with high-power small-caliber rifles and the finding of these shells, you say, then, you were impressed that some of these men had done some of the shooting?—A. Yes, sir.

Q. When did you change your opinion about that, Captain—you did change it, did you?—A. Yes, sir; but not in a minute. It was a thing of somewhat steady growth. The longer the thing ran on without our being able to get any clue at all which implicated any of our men the less confident I became of my original position; so that change of opinion was not a sudden thing.

Q. When was it you made up your mind definitely?—A. After I read the report of the microscopic examination of those shells.

Q. That report was made here some three or four weeks ago.—A. I only saw it about last Monday, a week ago yesterday.

Q. Up to that time you were impressed with the fact that your men had done this shooting?—A. I thought perhaps they might have done some of it.

Q. This microscopic examination, do you know what that was?—A. I read the report, sir.

Q. You read the Hawkins report?—A. Yes, sir.

Q. Where and when did you read that report?—A. I got a copy of it from a friend of mine here in Washington. Of course that was a thing that was new—a test of that kind—and I suppose half of the officers in the Army have been anxious to see the result of that test.

Q. When did you get it—after you came to Washington?—A. Yes, sir.

Q. How long have you been in Washington?—A. Since a week ago Monday.

Q. You had not seen the report until you came to Washington?—A. No, sir.

Q. And you discussed this question with others, about this report?—A. Well, yes, sir; I have talked it over with a number of friends of mine here. I have a good many friends in the Department.

Q. Please tell us in your own way what there is in this report which caused you to change your mind.—A. I did not say that report caused me to change my mind. I said that was the final argument.

Q. I do not want to misunderstand you. You said that up to that time, as I understood you, you were impressed with the idea that your men had done the shooting?—A. I thought they might have done it, but that impression had been absolutely weakened as time went on.

Q. But you did not finally conclude that they did not until you read this report?—A. That was the final argument that convinced me.

Q. What in that report convinced you that they had not done it?—A. The two things were the location of two of those guns in the company storeroom, and the double imprints of the strikers. Those were the two points that especially impressed me in the matter.

Q. The guns in what storeroom?—A. Well, there were only four guns that were located as having fired these shells.

Q. What guns?—A. They were guns of B Company.

Q. What did you know about B Company?—A. I only knew B Company as I knew any other company in the regiment.

Q. You were not commander of that company?—A. No, sir.

Q. You did not know what had been done in the storeroom of B Company?—A. No, sir.

Q. How did you know in what condition B Company's storeroom was?—A. Well, I know the commanding officer of B Company; that is, the man who was commanding officer at that time.

Q. So you made up your mind upon this report, together with what the commander of the company told you?—A. The special thing was the double imprint of the strikers.

Q. The double imprint. I asked you this morning if it was not possible for a man to have had one of these cartridges that failed to fire at Niobrara, to put it in his pocket and bring it to Fort Brown, and to have shot it there, and you said that was possible.—A. Yes, sir; but the possibility is very remote, in my opinion.

Q. But it might have been?—A. Certainly; it is possible.

Q. And those were the only two things—what the commanding officer of Company B had told you in regard to the storehouse of B Company and this report as to the imprint on the shells—those were the only two things that caused you to change your mind?—A. No, sir. I should like to repeat again that this report was simply the last thing that satisfied me, or that convinced me, but my opinion has been changed for eight months, or approximately eight months.

Q. Had you been investigating B Company's men as to what they had done?—A. Only so far as swearing them to their affidavits.

Q. Their affidavits alone—taking their evidence as to the conditions in B Company?—A. I made no investigation of B Company. The only thing that I know about what the B Company men did, or what they knew of the affair, is what they said in their affidavits.

Q. In thinking the matter over, if it had been done by any company in the battalion, you made up your mind which company in the battalion had done it?—A. No, sir.

Q. Was there anything else in this report that convinced you that the men did not do it?—A. Those are the two salient points, to my mind; those were the things that impressed me.

Q. Did you have any target firing after you left Fort Brown?—A. Yes, sir.

Q. At Niobrara?—A. At Fort Reno.

Q. How many men of your company were detailed?—A. I would have to look over my records before I could tell that. There were certain classes of men who were required to take what they called the "supplementary season." They are men who failed to make higher than third class and recruits who have come to the company subsequent to the closing of the target season. Those men are required to take the subsequent season course, but who those men are I can not say offhand.

Q. You have no way of telling except by referring to your books?—A. That is all, sir; the men who made third class in 1906.

Q. Were there any recruits to your company after you left Fort Brown?—A. Yes, sir.

Q. Do you remember how many?—A. I can not say exactly those who took that course. I should say three or four, or perhaps five.

Q. Not exceeding five recruits?—A. I will not say definitely; but that is my impression. I have not seen my company record for two months and over.

Q. Were there any discharges from your company?—A. Yes, sir.

Q. How many prior to the time that they were all discharged? From the time you left Fort Brown until Fort Reno, were there any discharges?—A. Were there any discharges from when?

Q. From Fort Brown to Fort Reno until the final discharge.—A. There were quite a number; yes, sir.

Q. Quite a number from your company?—A. Yes, sir.

Q. Do you know what became of their guns when the men were discharged?—A. Every man when he is discharged turns in all the property for which he is accountable, and that is checked up.

Q. Turns it in to whom?—A. To the quartermaster-sergeant.

Q. What does he do with his gun?—A. He locks it up in the storeroom.

Q. Do you know whether he put it in the chest, or did he set it up in the storeroom?—A. The guns are put in the arm chest when they are turned in. They are oiled up and put in the arm chest.

Q. You said you had quite a number of discharges. Have you any idea of the number?—A. No, sir; I could not say. They have the rolls at the War Department.

Q. But you could tell about how many?—A. I should say seven or eight men.

Q. Seven or eight?—A. That is just an attempt at an approximation.

Q. So that you had more discharges than you had recruits?—A. I am not prepared to say that.

Q. What was the custom when a recruit came in? Did they furnish him with a gun that was taken from a discharged man, or did they furnish him with a new gun out of the arm chest that had not been used?—A. Usually a gun that has been turned in by some discharged man.

Q. The custom is to hand a recruit a gun that has been in use?—A. Yes, sir; although there is no hard-and-fast rule carried-out in that matter. We give the recruit a good, serviceable gun.

Q. But it is ordinarily so that they do give him a gun of some discharged soldier's? They would not go and take a new gun, with the cosmoline on it, and give it to a recruit?—A. Unless the discharge and the recruit were about simultaneous, the chances are that this gun would be covered with cosmoline anyway, because as soon as a man turns in his gun it is covered with cosmoline and put in the arm chest.

Q. When the gun is put in the storehouse, it is clean?—A. It is supposed to be, sir.

Q. Were those the orders?—A. Yes, sir; that a gun should be clean when it is turned in.

Q. Would the quartermaster-sergeant accept a gun unless it was clean?—A. Not under ordinary conditions; no, sir.

Q. His order is not to receive a gun until it is cleaned? He would not put the cosmoline on it until it was cleaned?—A. No, sir; not under ordinary conditions.

Q. Do you know how many men were detailed from your company after you left Fort Brown to do target practice?—A. No, sir; I

think I stated that I could not tell the number. They were the men who made third class. I think I had four of those, or possibly five, last year, I don't recall; either four or five; and then the recruits.

Q. After they came off target practice was it the orders that they should clean their guns?—A. As soon as a man is through with his target practice he is supposed to clean his gun.

Q. That is the order?—A. Yes, sir.

Q. Is there any inspection made of guns when they come off target practice?—A. It is not customary to make any inspection prior to the regular Saturday morning inspection, which is always held under arms and is a weekly affair.

Q. Suppose a man was on target practice and came off, he would have to go on inspection Saturday morning, would he not, if he came off before Saturday?—A. Yes, sir.

Q. And his gun was inspected every Saturday morning?—A. Unless he might have been on guard, or on some duty at the Saturday morning inspection. You do not get all the men in your organization in your Saturday morning inspection.

Q. If you did not get them one Saturday, you would get them the next Saturday, wouldn't you?—A. As a rule; yes, sir. For instance, the provost-sergeant, you never get him, and one or two other men, the baker and men of that kind.

Q. Prior to the time of discharging all of these enlisted men, their guns had been inspected the Saturday previous, had they not, or on the two Saturdays previous?—A. No; there are some of them whose guns were not inspected, I know.

Q. Why not?—A. Because they were doing something where they could not be at the Saturday morning inspection.

Q. Take the Saturday previous to that time?—A. The same thing would apply.

Q. What were they doing?—A. I don't think the provost-sergeant ever attended a Saturday inspection. He would attend the monthly inspection, but not the Saturday inspection.

Q. Did the provost-sergeant attend the inspection of the morning of the 14th of August?—A. Yes, sir; I got every man I could get that morning.

Q. Who else except the provost-sergeant?—A. I had one man that worked for me that I occasionally used to excuse from inspection.

Q. Had the provost-sergeant been on target practice?—A. He had taken the regular course at Fort Niobrara.

Q. From the time you left Fort Brown until these enlisted men were discharged had he ever fired his gun?—A. He may have been on one of the monthly competitions that we had. He did not have to take the supplementary season or the additional practice there, but he may have been on one of the monthly competitions. I can not say as to that.

Q. How about the man that you had detailed to work for you?—A. He had not fired at all there.

Q. He had not fired?—A. No, sir.

Q. That makes two. Was there anyone else whose gun was not inspected?—A. I can not definitely name any other men.

Q. Would there have been any whose guns had not been inspected?—A. It is possible they might have been on guard. It is

possible for a man to be on guard two Saturdays. It is very possible that a man may miss two Saturday inspections.

Q. Would he miss three?—A. Hardly, unless he was on some duty that habitually excused him.

Q. How about his gun before he went on guard?—A. The men who go on guard, their guns are inspected twice—once by the first sergeant before he marches the detail out—

Q. Every man who went on guard had had his gun inspected twice?—A. Yes, sir; but every man does not do guard duty.

Q. Those that did not go on guard, their guns were inspected on Saturday?—A. If they were available for Saturday inspection.

Q. I understood you to say that everybody except two whom you have mentioned and the guard were inspected, and you say the guard was inspected twice?—A. I don't think I am quite clear as to that, sir.

Q. As I understood you—I may be mistaken—you said you had an inspection every Saturday morning?—A. Yes, sir.

Q. And that everybody was present except the provost sergeant and a man that you had detailed and the guard?—A. Well, I did not mean to say that, exactly. There may have been others who were not present, also.

Q. Why?—A. There are all kinds of details, orders from the adjutant's office requiring this man to do this and that man to do something else, outside of their ordinary regular duties, and it is very possible that some of those men might not have attended inspection.

Q. The class of men you speak of, were they on target practice?—A. Where?

Q. At any time?—A. Every man has target practice during the year, or most of the men—

Q. These men who were detailed to your quarters did not, you say?—A. They had the regular target practice at Niobrara.

Q. From the time you left Fort Brown until the final discharge of these men, that is the time that I am talking about.—A. Yes, sir.

Q. These men that you speak of as being detailed, had they been on target practice?—A. They would have had that target practice had they made third class in their qualification for the target practice year of 1906.

Q. Were any of these men in the target practice?—A. I don't know, sir. I have not attempted to state who the men were.

Q. But you do say that all the guard were inspected twice and you had a regular inspection every Saturday morning?—A. Yes, sir.

Q. And their guns, of course, were clean, and those that were discharged, their guns were supposed to be clean—the orders are to see that they are clean before they are stored?—A. Yes, sir; under ordinary conditions that is carried out.

Q. There were no extraordinary conditions at Fort Reno?—A. There was in the turning in of the guns of these men who were discharged by order. That was done very hurriedly, without a moment's warning.

Q. What day of the week was that?—A. I was not there, sir; I do not recall the day of the week. The officer who was superintending that thing simply went over there and ordered the guns turned

in at once, and the guns were brought in to him, and he checked off each man's rifle, and they were at once locked up and put in the ordnance storehouse.

Q. All the men who had been on guard previous to that time had had their guns inspected twice and the Saturday previous they had had the regular inspection—is not that so?—A. I do not think I quite understand you.

Q. You said it was an extraordinary thing to discharge all these men at one time?—A. No, sir; I did not say that; I said the conditions were extraordinary.

Q. Taking that to be so, that the conditions were extraordinary on the day they were discharged, there was an inspection on the Saturday previous to that time?—A. Yes, sir.

Q. And all the guard that had been on guard previous to that time had had their guns inspected twice?—A. Yes, sir.

Senator OVERMAN. I believe that is all I want to ask you.

By Senator WARNER:

Q. Captain, just a few questions. Will you please take this rule? That map up there is supposed to be, as we understand, on a scale of 30 feet to the inch.—A. Yes, sir.

Q. Will you kindly measure the distance from your quarters to barracks D?—A. Approximately 200 yards.

Q. That was the distance you had to go to get to your company?—A. According to this map, yes, sir; and I think that is about right.

Q. When you got there, without going over that plan, there were one or two men down out of the barracks?—A. Yes, sir.

Q. And the others were coming down?—A. Yes, sir.

Q. And the men came down after you got there?—A. Yes, sir.

Q. You had no roll call in front of the barracks?—A. No, sir.

Q. No accurate count of the men in front of the barracks?—A. No, sir.

Q. At that time you were under the impression that the barracks were being fired upon?—A. Yes, sir.

Q. And therefore your main business was not calling the roll, but getting your men in line and getting them around in position to defend the barracks?—A. Yes, sir.

Q. That would be natural for a soldier, would it not?—A. Yes, sir.

Q. And that is what you did?—A. Yes, sir.

Q. And then you reported to Major Penrose that your company was formed, and he ordered you to place them along the wall in a skirmish line?—A. Yes, sir.

Q. In skirmish formation?—A. Yes, sir.

Q. Placing the men from 5 to 6 feet apart?—A. I think they were not so far apart as that; we had to reduce the interval somewhat.

Q. What would be the intervals between the men?—A. Under ordinary conditions the interval is two paces.

Q. That is what I understood, 6 feet.—A. But we had to reduce that somewhat.

Q. Well, about 4 or 5 feet?—A. Yes, sir; about that.

Q. And they were along the wall?—A. Yes, sir; along the wall.

Q. Deployed along the wall—that was a dark night?—A. It was a clear night—that is, it was not cloudy, but it was very dark.

Q. A clear night, stars shining?—A. The stars were shining, but they were not brilliant.

Q. It was a dark night, what you call a dark night?—A. Yes, sir.

Q. So that you could not see men but a few feet away from you?—A. Yes, sir.

Q. That is correct, isn't it?—A. Yes, sir.

Q. And when your company was deployed as skirmishers where did its right rest—at the gate?—A. Just to the west of the main gate—practically at the gate.

Q. And then extending to the left, down toward the Rio Grande River?—A. Yes, sir.

Q. And you had substantially 43 or 44 men in line?—A. Yes, sir; 43 to 45 men in line.

Q. So your line extended in the neighborhood of from 150 to 175 feet, the front of your line?—A. Yes, sir; I should say so.

Q. When you were at the right of your company of course your left man would be from 160 or 175 feet away from you; that is correct, isn't it, Captain?—A. Yes, sir.

Q. How long had you been around there before you made the roll call?—A. Just as soon as we completed the deployment.

Q. Why did you make the roll call then?—A. By order of the commanding officer, Major Penrose.

Q. It was for the very reason that you did not know whether all the men were present or not, was it not, Captain?—A. I did not inquire the reason of the commanding officer. He directed me to make a roll call, and I made a roll call.

Q. Did all of the men answer?—A. All of the men who were present answered to their names.

Q. I will just call your attention here to a statement of yours in your testimony, found in Senate Document No. 155; but before that I will ask you did you have any lantern out there?—A. No, sir; not until I wanted to make the roll call.

Q. Then you sent the sergeant in for a lantern?—A. Into the orderly room; yes, sir.

Q. And you had the lantern there. Then you had no fear of any further attack at that time or you would not have been there with a lantern, hardly, would you?—A. Well, I don't know, sir; the firing had ceased.

Q. I know; but I ask you, did you have any cause to believe there would be any further attack at that time? If you had, would you have been there with the lantern?—A. I did not think there was going to be any more firing; but I will not admit that if it was necessary for me to have had a lantern there I would not have had any lantern.

Q. If you thought there was going to be firing, you would not have had a lantern?—A. Not unless it was necessary to have a light.

Q. It would not have been necessary to have a light and expose your men to fire?—A. No, sir; but—

By Senator HEMENWAY:

Q. Was it by reason of the order that you should call the roll that you had the lantern there, or was it of your own volition?—A. It was simply because I was ordered to have a roll call, and it was impossible to call the roll without a light.

By Senator WARNER:

Q. I notice in your statement, as found on page 114 of Senate Document 155, this expression; I will read the question and answer, so that you will have it:

Q. When was the roll called first?—A. The company was formed, and the men accounted for. The commanding officer directed me to put my men along the wall dividing the post from Brownsville at once. I did that, and then the roll was called. The first sergeant with a lantern, and myself, went down the line and saw that every man was present; that is, a man answered the name of every man.

A. Yes, sir.

Q. Why did you put in there that qualification, "that is, a man answered the name of every man?"—A. In my experience I have found that sometimes there will be an answer given by a man who does not bear the name that has just been called.

Q. That is the reason you made your statement that way?—A. That is the reason I did it that way.

By Senator HEMENWAY:

Q. Pardon me; I did not understand the answer; that is the reason you did what?—A. Took this particular pains with this roll call; that I, myself, went with the first sergeant and was sure, for instance, when the name of "Jones" was called that "Jones" answered "Here."

Q. Then you wanted to know that the man who answered was the man who bore that name?—A. I wanted to be sure I got an accurate roll call.

By Senator WARNER:

Q. But I asked you this question so that there would be no misunderstanding of your testimony; that is, you first say:

The first sergeant, with a lantern, and myself went down the line and saw that every man was present—that is, that a man answered the name of every man.

I think, in answer to that question, you said it sometimes happens that a man answered to a name that was not his own?—A. Answered to the wrong name; I have seen that; yes, sir.

Q. And that is the reason you put this qualifying sentence in your testimony?—A. I think that was before Colonel Lovering, was it not, sir?

Q. Yes, sir.—A. He just wanted me to give him all the details of the roll call that I might, as well as I could recollect, and that was my statement to him as to the manner in which that roll call was conducted.

Q. And the roll call was completed from five to eight minutes after the last shots were fired?—A. I think that is correct, sir; that is my impression of it.

Q. And the last shots were those scattering pistol shots that you heard?—A. The last shots were the pistol shots, out in the town.

Q. Now, go for a moment to the gun racks.

Senator HEMENWAY. I just want to put one question before we get away from this subject.

Senator WARNER. Certainly.

By Senator HEMENWAY:

Q. Captain, did you assure yourself that the right man did answer on the roll call?—A. Yes, sir; that was my object in going with the first sergeant while he made his roll call.

Q. Then this statement which you put in here, that sometimes a man answered to the wrong name, did not apply to that night?—A. Not at all; that was just an explanation of why I wanted to assure myself that the right man answered to the right name, because in my service I have seen the other plan tried.

Q. So, on this particular night you took this precaution to assure yourself that the right man did answer to the roll call?—A. Yes, sir; I wanted to have an accurate roll call, and that was the only way I could do it.

By Senator WARNER:

Q. Is there any further explanation that you want to make of that, Captain?—A. No, sir.

Senator HEMENWAY. It was very evident that the Captain did not understand your question, and I wanted to make it clear, so that the Captain would not be left in a false position.

Senator WARNER. There was no intention of that sort; simply before we left I wanted to ask him if he had any further explanation.

Senator HEMENWAY. It was not an explanation; it was a direct answer to a question put by me.

By Senator WARNER:

Q. Now, we will pass to the gun racks. When did you first examine the gun racks that night of the 13th?—A. About 3 o'clock in the morning, after the rifles were put in, by order of the commanding officer.

Q. Did you examine the gun racks when you called the roll?—A. No, sir.

Q. You knew nothing about the number of guns, then?—A. I got a report from the noncommissioned officer in charge of quarters.

Q. And rested upon that report?—A. Yes, sir.

Q. That is, the noncommissioned officer would report to you so many guns in the gun racks, and to that number place the number of men in line, and place the number of men on guard duty, and the number of men who were absent on pass; you took them into account?—A. The total of my guns.

Q. That is correct, is it not?—A. Yes, sir.

Q. And that is all you knew, at that time, with reference to that part of it? Now, the character of this firing was from what you would be pleased to call high-power guns.—A. The larger portion of it; yes, sir.

Q. All of it, except what you have spoken of?—A. There was a great deal of pistol firing after the first.

Q. Excepting the pistol firing that you heard at the commencement, and the pistol firing that you heard after the close of the main shooting, that was all from high-power guns?—A. Well, the first two shots that I heard were pistol shots; then came the high-power rifles; and then there were revolver shots mixed with high-power rifles; and then, later, nothing apparently but revolver shots.

Q. In your testimony in the court-martial proceedings, do you

remember whether you said anything about this pistol firing at the first part?—A. The first shots I heard?

Q. Yes, sir.—A. I think I did, sir.

Q. And also that they were intermingled with the high-power guns.—A. I do not mean to say that during that heavy firing I could pretend to hear or differentiate any pistol shots, or anything of that kind, but as the thing died out there were still a few shots apparently from high-power rifles and pistol shots.

Q. In going from your quarters across to the barracks—and, as I think you stated it, you think you were wakened in the early part of the shooting because you heard these pistol shots before there were any high-power guns—you came down and got out in a very few seconds?—A. Yes, sir.

Q. I do not suppose anybody could tell how many seconds, but just as soon as you could?—A. As soon as I could.

Q. And that placed you right out in front of the parade ground; you were in a position to hear if any shooting had taken place then in the parade ground, inside the fort, would you not?—A. It would seem that I should have heard any shooting inside the fort.

Q. If anyone had discharged a high-power gun between B and C quarters, there in the interval and nearly parallel with the front of those quarters—that is, the part fronting on the parade ground—you were in a position to have heard it?—A. Yes, sir; I was in a position to have heard it.

Q. Wouldn't that certainly have attracted your attention, being convenient to you?—A. Well, if the shooting by these other high-power guns was going on at the same time, it is possible that I heard—I must have heard—those three shots, or whatever number of shots there were that a person had fired, but it is also possible that I did not differentiate them.

Q. But that is hardly probable, is it?—A. It would seem not, sir.

Q. But you now have no remembrance of hearing any such shots?—A. No, sir.

Q. And this firing from high-power guns you located somewhere back of the barracks, did you not?—A. Yes, sir.

Q. Did you at the time form an impression as to the number of parties engaged in that firing, from the sound of the guns?—A. At the time I did not, sir.

Q. In thinking it over since, have you?—A. Yes, sir; I made an estimate the next morning, what I thought about it.

Q. What was that estimate?—A. Well, I figured from about 8 to 12 rifles.

Q. That is, the next morning, in going all over this, you figured that from 8 to 12 persons could have done all that firing that you heard?—A. Well, of course I recollected the impression that I had of the number of shots and the rapidity, and I concluded the next morning, in thinking it over, that probably from 8 to 12 persons had done the firing.

Q. Would you determine it in the same way in battle or in a skirmish, when you could not see the number of the enemy and you wanted to determine something about the strength of the force—you could tell something about the number of people firing?—A. Yes, sir.

Q. And this you determined in the same way, Captain?—A. Yes, sir.

Q. That night Mayor Combe came up and made the report that you have stated. I shall not go over that again. Something has been said about Tamayo, the scavenger. You saw him that night?—

A. Yes, sir.

Q. He gave you an account, did he not?—A. Yes, sir.

Q. Did he tell you what he heard?—A. Yes, sir; he told me what he heard and what he did.

Q. Well, what did he tell you?—A. He told me that he was in the rear, or behind the rear, behind the east end—the west end—of B Company, and that he heard one shot; and he also claimed that he heard a bullet which apparently passed over in the direction of the Rio Grande River, and that he became frightened—he heard some more shooting and became frightened—and went around in front of the barracks in order not to be hit by any of these bullets. That he saw no men inside of the wall, and that the first shooting was from the outside.

Q. Is that all he told you, Captain?—A. That is all I recall, sir. I took his affidavit the next morning, and that affidavit is substantially the same as what he told me the night before.

Q. Did he say that he heard a voice, one voice, out there, saying “I want all of you?”—A. I do not recollect whether he said anything of the kind or not.

Senator FORAKER. That was another witness who said that, not Tamayo. That was Taliaferro.

Senator WARNER. I am asking whether Tamayo said that.

By Senator WARNER:

Q. Tamayo said nothing about hearing a voice saying “I want all of you?”—A. No, sir.

Senator WARNER. I do not mean to imply, Senator Foraker, by that question that Tamayo said that.

By Senator WARNER:

Q. He told you nothing about it at all, did he?—A. No, sir.

Q. Did you attach considerable importance to Tamayo's testimony?—A. Yes, sir; I did.

Q. And then you stated that you felt at that time that you needed Tamayo's testimony badly?—A. That was what I thought at the time, sir; that we ought to have just what he knew about it, and get it on record.

Q. Why did you feel that you needed Tamayo's testimony so badly?—A. It was certain that there would be trouble and an investigation about this shooting business, and we could not tell what would happen to this man Tamayo if his testimony was not taken right fresh, before he had thought it over and enlarged upon it; so that I suggested to Major Penrose that we have him in the morning and get his statement right while it was fresh in his mind.

Q. What do you mean by saying that you did not know what would happen to Tamayo?—A. Those people of his class are apt, unless you get their statements right fresh, very apt to get it and enlarge upon it and embroider it and get mixed up in their data, and I wanted the statement right as he knew it then and at the time the thing occurred.

Q. Howard had made a statement to you?—A. Yes, sir.

Q. And did Taliaferro make a statement to you?—A. No, sir.

Q. He was sergeant, was he not?—A. Yes, sir.

Q. Did Taliaferro tell you about hearing anybody calling out, out there, at the commencement of that shooting, "I want all of you?" I think those were the words.—A. I never asked Taliaferro any questions at all, sir.

Q. He was sergeant-major of the regiment?—A. Of the battalion.

Q. Of the battalion, I mean. You heard nothing of that?—A. No, sir.

Q. You took statements of parties there who said they heard men out there saying "Come out, you black sons of bitches?"—A. I just administered the oath to them—to their affidavits.

Q. That was within a day or afterwards, was it not?—A. The statements were taken by their company commanders, and in a number of cases, owing to the pressure of work during our movement to Fort Reno, some of these men were not sworn to their statements until after we got to Reno.

Q. Did you compare those different statements as to what those men said they heard?—A. No, sir; only the statements of the men of my own company.

Q. That is, in your own mind. Now, in forming your opinion as to who it was that did this shooting, whether it was citizens or whether soldiers were mixed up in it, or it was soldiers—in coming to a conclusion did you compare the different statements made?—A. No, sir; I do not think I did.

Q. In your own mind?—A. No, sir; I just took the impression they gave me, and I do not think I made any comparison at all.

Q. Did you see the shells picked up by Captain Macklin?—A. Yes, sir. That is, I saw shells that the commanding officer showed me, and he said that Captain Macklin had picked them up near the mouth of that alley.

Q. Where were those shells?—A. When I saw them?

Q. Yes.—A. I think the commanding officer showed me those shells in his office.

Q. How many?—A. I do not know exactly; five or six or seven shells and a few clips.

Q. Did you make an examination of those shells?—A. To look at them, just to assure myself that they were Government shells.

Q. Of what rifle?—A. Of the Springfield rifle.

Q. And you were satisfied that the clips were also the clips of the Springfield rifle in which the ammunition is put?—A. Yes, sir.

Q. You had no doubt of that then, and you have no doubt now?—A. No, sir.

Q. Did you make an examination of those shells to see whether they had been recently fired?—A. No, sir; I did not. The commanding officer simply showed me the shells, and I looked at them, and I made no minute examination of them at all.

Q. Did the commanding officer make any remark to you when he showed you those shells?—A. I do not recall any remark, sir. He just showed me those and said that Captain Macklin picked up those in the alley.

Q. Did he say, "That looks bad for the boys," or anything of the kind?—A. He may have said something to that effect.

Q. I am only asking your remembrance.—A. Yes, sir; I do not recall what he said.

Q. You heard afterwards of other Government ammunition being found, did you not?—A. Yes, sir; I heard of it.

Q. Shells and bullets?—A. I heard of bullets, I think, some time afterwards. I heard that day that the shells had been found.

Q. Of the Springfield rifle?—A. They were said to be; yes, sir. I did not see them at all. They were said to be the shells of our rifle.

Q. Did you go down into town at all?—A. No, sir.

Q. Did you go over to the telegraph office? You heard that had been fired into—the building at the corner of Elizabeth street and Garrison road. Did you go over there?—A. No, sir.

Q. Did you go to the Cowen house?—A. No, sir.

Q. You made no investigation, then, in the town?—A. No, sir.

Q. You had the privilege of going into town, had you not?—A. No, sir; we were confined to the garrison.

Q. You mean the officers and the men also?—A. Yes, sir; the officers also.

Q. So that you had no opportunity of doing that?—A. None whatever, sir.

Q. I did not know that. Now, in this examination you made of these men—of Tamayo and Harden and others, you did not restrict them from giving you any information, did you?—A. No, sir. The affidavits of the men outside of my own company and this man Tamayo were prepared not by me at all. I merely administered the oath to them.

Q. But, confining it to your own men of your own company, Captain, so far as they went, you encouraged them to tell everything they knew, did you not?—A. Yes, sir.

Q. You placed no restrictions on them in that respect?—A. Not at all, sir.

Q. Were you there when Major Blocksom was there?—A. I was; at Fort Brown.

Q. I know. That was at Fort Brown?—A. Yes, sir.

Q. You were there?—A. Yes, sir.

Q. Was that examination conducted in the same way?—A. I do not know anything about his methods of conducting the examination, because I was not present when he made the examination.

Q. How about Colonel Lovering?—A. I was not present when he examined the men. He called me in and examined me.

Q. You were present?—A. I was not present; no, sir.

Q. And you heard General Garlington? Were you present at any of that?—A. General Garlington? I was present while he examined the officers, but not while he examined any of the enlisted men.

Q. You knew Mayor Combe there, did you not?—A. I beg your pardon.

Q. You knew Mayor Combe by reputation?—A. Yes, sir; I knew him personally.

Q. He had been in the Army, as I understood.—A. He was a major of volunteers; yes, sir. I did not know him, though, in that capacity.

Q. Yes; I understand that. He was mayor of the city when you were there?—A. Yes, sir.

Q. And he was attending physician, was he not, there at the barracks to the men?—A. Yes, sir.

Q. He came that night and insisted that the men had done the shooting up the town?—A. Yes, sir.

Q. And you told him that the shoe was on the other foot?—A. I might not have put it in exactly those words. I told him that he was mistaken.

Q. I was just taking your testimony as I remembered it.—A. Yes, sir.

Q. What evidence did you have then that he was mistaken, if any?—A. The quartermaster-sergeant of my company was the first man I met, and I asked him what the trouble was, and he said that they were shooting at us from the town. Then, of course, there was that affair about that woman—

Q. Mrs. Evans?—A. Mrs. Evans. The paper of that evening, the Brownsville Herald, had a most inflammatory article on its first page, and that led me to believe, in connection with the statement of my quartermaster-sergeant, that it was correct. I believed him. He gave me the direction where he saw the first flashes of guns from.

Q. Where was it the quartermaster-sergeant said he saw the first flashes of the guns?—A. From a house. I guess it is numbered 9 on that map. I think that is a green house. I think that is where he pointed over to me as where he saw the first shots.

Q. He told you that they came from the green house?—A. I think it was the green house.

Q. That is, meaning by that, as you understood, of course, a house painted green?—A. Yes, sir.

Q. Did he see the persons in the house doing the shooting, did he tell you?—A. I did not understand that he did.

Q. What did you understand?—A. I understood that they were in the house doing the shooting toward the post.

Q. And when you speak of the green house, that is on the corner of what we call the Cowen alley and Garrison road?—A. Yes, sir.

Q. Did you have anything else that led you to doubt? Mayor Combe told you that they had killed one man, did he not?—A. Yes, sir.

Q. And wounded another?—A. Yes, sir.

Q. And shot into a great many houses?—A. Well, there was a lack of motive for the men doing a thing of that kind, and I knew the men of my company, and the reputation of the battalion, and their condition as to discipline, and so forth, and I could not believe the thing simply on Mayor Combe's statement.

Q. Could you see any motive for the citizens themselves to fire upon the town?

Senator FORAKER. Upon the barracks, you mean?

Senator WARNER. No; upon the town.

Senator FORAKER. Oh!

A. We had no proof then that the town had been fired into at all, except that this policeman had been wounded and this man Natus had been killed.

Q. But you had the statement of Mayor Combe, the mayor of the city?—A. Yes, sir.

Q. And you afterwards did learn, as a fact, that one man was killed, did you not—that is, it was so stated as a fact?—A. Yes, sir; so stated as a fact.

Q. And that one man was wounded, and lost an arm?—A. Yes, sir.

Q. And that a considerable number of houses had been fired into in the town?—A. Yes, sir.

Q. You heard all that, did you not?—A. Yes, sir.

Q. You did afterwards know an examination was made of the barracks and no evidence could be found upon either of them or anywhere about the fort of any shots being fired at or toward the barracks or the fort or over it, did you not?—A. Yes, sir.

Q. You knew that fact?—A. I beg your pardon?

Q. That is correct, I say?—A. Yes, sir; I know it was stated as a fact. I made no examination myself, and I know just what I heard about it.

Q. Did those facts make any impression upon you as to whom the parties were who did the shooting up of the town of Brownsville?—A. As I have stated, sir. After these shells were found and these clips, I was of the opinion that some of our men had done some shooting that night.

Q. When you came to that conclusion upon seeing those shells and when you learned afterwards, which seemed to be from reliable sources, that a man had been killed in town and another wounded and that the officer's horse had been shot and various buildings had been fired into, did that not strengthen your belief that some soldiers had been engaged in the shooting?—A. I retained that opinion about some of our men having done some of the shooting for a considerable period, as I stated in answer to a previous question here.

Q. Captain, you retained that opinion; notwithstanding that you had made the roll calls of which you speak and you had made the inspection of the guns of which you speak, and all of that in the intervening time, yet you retained that opinion?—A. That inspection and the roll calls made were made only, so far as I was concerned, in my own company.

Q. Well, you understood that similar roll calls had been made and inspections; you understood that?—A. I supposed they had; yes, sir.

Q. And notwithstanding all that you retained the opinion that some of the soldiers had been engaged in the shooting?—A. Yes, sir; for quite a considerable time.

Q. All the time that you were at Brownsville?—A. Yes, sir; during all the time we were at Brownsville. We were only there about two weeks after the shooting—a little less than two weeks, I think.

Q. You went with a patrol down into the town that night?—A. Yes, sir.

Q. And there you met Mayor Combe. You saw no evidence of any disturbance down there?—A. Nothing but one man with a Winchester, who turned out to be a policeman.

Q. Yes; that was all.—A. And these people on the sidewalk.

Q. That would be a most natural thing, would it not, during the excitement of the shooting up there, after the excitement of the shooting?—A. Yes, sir; I should think so.

Q. And these people on the sidewalk were not making any disturbance?—A. No, sir.

Q. And they were not armed, so far as you know?—A. No, sir; I did not notice them particularly. They were in the shadow.

Q. And you marched a very considerable distance on the street;

did you say east of Adams street? I have forgotten what you said.—A. No, sir; up Washington street.

Q. Up Washington street, yes—somebody else spoke of Adams street—and then down the cross street running east and west, and you do not remember whether it was Twelfth or Thirteenth?—A. No, sir; I do not know one street from another, except Elizabeth street.

Q. Yes. You came down Elizabeth street, then, back to the garri-son?—A. Yes, sir.

Q. And you met Mayor Combe, and what was it Mayor Combe said to you?—A. He said that this was a terrible thing—that the soldiers had shot up the town and killed this man and wounded a policeman.

Q. Yes; and was it he or his brother who said something to you about stopping some men?—A. When I first met Dr. Joe Combe, the mayor's brother, and I went up and he saw who it was, he told me then that he thought my men were a party of Mexicans going down to attack the post. Later, when I met Mayor Combe, he told me that I was fortunate in having missed about two hundred or a hundred and fifty—from a hundred and fifty to two hundred—armed citizens by about two minutes. I had just missed them with my company, and he had been able to disperse them and had sent them back to their homes.

Q. You understood from him that that aggregation of citizens or meeting of citizens was by reason of the shooting up of the town? That was the cause of it, was it not?—A. I did not ask him any thing about that. Of course we were in a hurry.

Q. But from the connection of the talk you had—we form opinions sometimes from the connection of things—you understood that that meeting of the citizens was by reason of the shooting up of the town?—A. Yes, sir; I understood that it was because of the shooting that these people had gathered and contemplated attacking the post.

Q. And he said that he, Mayor Combe, had talked with them and dispersed them and sent them to their homes?—A. Yes, sir.

Q. And when he met you he gave the command to halt?—A. That was Doctor Combe. He cocked his revolver and ordered me to halt, which I did.

Q. And then they went on with you to the fort?—A. Yes, sir.

Q. Just a word more. Do you know of any rifle which the Springfield ammunition can be fired out of?—A. Yes, sir. It can be fired out of a Winchester rifle, model of 1895, and out of the Ballard; and there is one other, I think. I do not recollect what that is.

Q. When fired out of the Winchester there will be six lands upon the bullet, will there not?—A. I think the Winchester has six lands in the bore of the rifle.

Q. Do you not know?—A. I am not very familiar with any rifle except our own.

Q. The Springfield rifle only makes four lands?—A. Yes, sir; the marks of four lands, ordinarily.

Q. The Springfield ammunition can not be fired out of the Krag-Jørgensen?—A. No, sir.

Q. Either out of the regular standard Krag-Jørgensen or the Krag-Jørgensen carbine?—A. No, sir.

Q. The carbine and the regular Krag-Jørgensen rifle carry the same ammunition, do they not?—A. Yes, sir; the Krag-Jørgensen rifle and carbine carry the same ammunition. Now, as to my statement made about this inability to fire the Springfield cartridge in the Krag-Jørgensen gun, I said no; but, as a matter of fact, I do not know anything about it. I never tried it.

Q. Did you ever try it with the Winchester?—A. No, sir; the information I have about this is the printed guaranty on the box.

Q. So that you know the same as to one as to the other? I think we will have no difficulty about that. It will be determined. Captain, as an officer, if you had believed that night—the night of the 13th—that men of your battalion had been engaged in the shooting up of the town of Brownsville, you would have taken greater precautions, would you not, than you did?—A. As a subordinate officer, there was nothing for me to do but just what I was ordered to.

Q. You would have felt like suggesting it? Of course I understand enough about military affairs to know that the commanding officer is responsible.—A. Yes, sir. I would like to have that former question of the Senator's read by the stenographer.

The stenographer read the question referred to, as follows:

Captain, as an officer, if you had believed that night—the night of the 13th—that men of your battalion had been engaged in the shooting up of the town of Brownsville, you would have taken greater precautions, would you not, than you did?

The WITNESS. I think I would, sir.

By Senator WARNER:

Q. Is it not a fact, Captain, that you would not have left the keys of the gun racks in the possession of a noncommissioned officer?—A. Had I believed that the men had done the shooting?

Q. Yes.—A. I probably would have taken the keys myself.

Q. That would have been the proper precaution, would it not?—A. I think so.

Q. You would have taken up all the keys—that is, the keys to the gun racks?—A. Yes, sir.

Q. You had confidence, you say, in your men?—A. Yes, sir.

Q. You had commanded the company some time?—A. I had had this particular company about four years.

Q. And I suppose, like any commanding officer, you became very much attached to your men?—A. Well, I had a pretty good lot of men; yes, sir.

Q. I say, you became very much attached to them?—A. Well, I will not say attached to them. I liked them. I was fond of them as soldiers.

Q. Yes; I did not mean socially, but that you became attached to them as soldiers?—A. Yes, sir.

Q. And what you have spoken of in the direct examination as to the character of your first sergeant and quartermaster-sergeant and others, why, on that account you were loath to believe that the men had had anything to do with the shooting up of the town,

were you not?—A. It was a thing I could not believe unless I had proof.

Q. Yes; and you required pretty strong proof to convince you and get you of that opinion?—A. Yes, sir; it would have to be pretty strong.

Senator WARNER. I think that is all that I care to ask.

By Senator FORAKER:

Q. Please tell us again just where you were when the call to arms sounded in accordance with the command of the commanding officer.—A. I was just about coming down my front stairway.

Q. If there had been three shots fired by the sentinel, between barracks B and C, just before the call to arms was sounded, would you necessarily have heard and distinguished those shots, if they had been fired under the circumstances you have described, with the other firing going on in the rear?—A. I think I would have heard them, without doubt, but I doubt if I could have distinguished them. I would not distinguish them.

Q. You know who this sentinel was who was on duty on post No. 2?—A. Yes, sir.

Q. Howard?—A. Yes, sir.

Q. He belonged to your company?—A. Yes, sir.

Q. Was he a good soldier?—A. Yes, sir; he was serving in the third year of his first enlistment, and I had always found him a very good man.

Q. Have you any doubt about the truthfulness of his statement that he fired his piece there to give the alarm, and called out, "Guard, No. 2?"—A. There is no doubt in my mind.

Senator WARNER. He called out, "Guard, No. 2?"

Senator FORAKER. He wanted relief to come to guard No. 2.

Senator WARNER. He called out, "Guard, No. 2?"

Senator FORAKER. That was the call, I think.

By Senator FORAKER:

Q. Just what is it that he should have called out?—A. He should have called out, "The guard, No. 2."

Q. Just cried out, "Guard, No. 2?"—A. No, sir; "The guard."

Q. "The guard?"—A. Yes, sir.

Senator WARNER. I think that is, in substance, what he stated. It is, in substance, the same.

The WITNESS. If a sentinel calls for the corporal of the guard, simply the corporal of the guard comes; but if there is serious difficulty and he cries for help, then every available man goes.

By Senator FORAKER:

Q. Every available man goes to his relief?—A. Yes, sir.

Q. There is a distinction, then, in the calls and in their meaning, as well as in the form of the calls?—A. Yes, sir.

By the CHAIRMAN:

Q. That would be all he would say?—A. "The guard, No. 2." And the guard manual prescribes that in case the danger is serious, he shall discharge his piece.

Q. But that would be the extent of what he would say or do?—A. Yes, sir; he would call: "The guard, No. 2."

By Senator FORAKER:

Q. The circumstances under which he told you about firing his piece, and his manner, and all that, were of such a character that you believed him?—A. Yes, sir.

Q. And you still believe that he was telling the truth?—A. Yes, sir.

Q. You have no doubt about that?—A. No, sir.

Q. There seems to be some discrepancy in the testimony as to whether you counted your men when you first formed your company in front of the barracks. I want to call your attention to what Sergt. Israel Harris of your company said on that point. Speaking of coming down out of the barracks and joining the company, he gave the following testimony, which I will read from page 7 of these hearings:

By Senator OVERMAN:

Q. Of what company was Captain Lyons commander?—A. Company D.

By Senator FORAKER:

Q. Was he there when you came down out of the barracks?—A. Yes, sir; he was there.

Q. You say the company counted off. What do you mean by that? Did they count themselves or did the captain count them?—A. They were ordered counted off, and then the captain went around and counted.

Then he goes on further. That is enough on that point.

Sergt. Jacob Frazier testified to the same effect, and I will read from page 61 of these hearings:

Q. Now, go ahead.—A. Captain Lyon fell in in front of the company, with his face facing the company and his back to the officers' line. As soon as the last man fell in Captain Lyon took command at once and went around the company—that is, he counted his men, went in front and then back in the rear and came back and took his place.

Others have testified to the same effect. I read that simply to refresh your recollection. Do you remember whether or not you counted your men there in front when you formed before you went around in the rear and had the roll call?—A. That is an error—that statement about my counting my men in front of the barracks.

Q. You did not count them there?—A. No, sir; what probably gave him that impression was that I went down the front rank and up the rear rank to assure myself that every man had a belt and some ammunition. There were two or three cases where a man had grabbed up the first belt that he could get hold of, and that belt did not have any ammunition in it, he had it all in his other belt; and I made some slight distribution of ammunition at that time. If a man had 20 rounds and another man had none I made the man with 20 rounds give the other man 10 rounds of it. That is what gave him that impression.

Q. You did not attempt to count them, but you did go around in the way they describe?—A. Yes, sir.

Q. In speaking about the microscopic inspection, in describing the effect that it had on your mind, you gave as one feature of it the fact that two of the guns with which the shells under inspection were identified were in the storeroom. You were asked how you knew they were in the storeroom. I call your attention to the fact that in Secretary Taft's letter transmitting this report there is a statement made on that point. Did you read his letter?—A. Yes, sir. Of course that is where I got my first information about it.

Q. I read you as follows:

From an official list of Companies B, C, and D, and the numbers of the guns assigned to them on August 13, 1906, it appears that two of the guns, one from which eight of these shells were discharged and one from which eleven of the shells were discharged, were not assigned to enlisted men, but were guns in the storehouse of Company B and in charge of the quartermaster-sergeant of B Company.

You read that statement, did you?—A. Yes, sir.

Q. That gave you the impression that there were two. Now, if it should turn out that there was only one, if it should be established without question that there was only one in the storeroom and the arm chest, and that the lid of the arm chest was screwed down and the storeroom locked, and it was shown conclusively that that arm chest had not been opened since it was closed at Fort Niobrara until after this firing that night, would not that produce on your mind the same effect as would be produced by the Secretary's statement, if that had turned out to be true—that is, would not the fact that one gun was in this chest have the same effect on your mind that two would have?—A. Yes, sir.

Q. That is to say, if one gun with which these shells were identified is shown to have not been fired that night in Brownsville, it would follow necessarily, would it not, that the shells, if they had been fired out of that gun, had been fired out of it at some other time or place?—A. I should say so; yes, sir.

Q. Do you know of any other time or place where any of these guns could have been fired, except at Niobrara?—A. No, sir.

Q. I will not go over your other reason, because you went over that on direct examination. You said that Mayor Combe told you about 150 or 200 armed men. I will ask you if it was not 300 armed men he claimed he had dissuaded from making an attack on the post?—A. I do not remember the exact number he gave, sir. I know it was quite a large body of men.

Q. He claimed to have dissuaded a large body of armed men, did he not?—A. Yes, sir.

Q. And to have done that before you got around there in making this patrol; and as I understand you, they had dispersed, and were out of sight, so far as you could observe?—A. Yes, sir; I did not see them.

Q. You were asked if you were not attached to your men. I suppose the degree of attachment you entertained for your men was dependent somewhat upon your estimate of them as soldiers, and upon their good character as men, was it not?—A. Yes, sir; altogether.

Q. Did you then have entire confidence in their fidelity as soldiers, and in the truth and veracity of these soldiers as men, who were in charge of your quarters and in charge of your storeroom?—A. Yes, sir; I had perfect confidence in them.

Q. You had it then. Have you got it still?—A. Yes, sir.

Q. Have you any doubt about your quartermaster-sergeant, Thomas J. Green, having told you the truth in regard to all he observed?

Senator WARNER. I think, Senator, I have asked no questions about that.

Senator FORAKER. This is only on the question as to whether he was so attached to them that he might have been misled by them.

Senator PETTUS. Senator, I think you asked all those questions before.

Senator FORAKER. Perhaps I did ask questions along the same line. I will desist.

By Senator FORAKER:

Q. I want to ask you about something that I should have brought to your attention when I was examining you in chief. I have two cartridges here, one a Krag-Jørgensen and the other a Springfield, and I have here also a number of bullets that are said to have been taken out of houses down in Brownsville. I wish you would look at them. The bullets which were cut out of the houses in Brownsville are in numbered envelopes. Look at all six of them, beginning with No. 1, and compare each one with the bullets in those two cartridges, the Springfield and Krag-Jørgensen, and state with that help if you can tell whether those bullets that were cut out of the houses in Brownsville are Springfield or Krag-Jørgensen bullets. See if you can tell which they are.—A. (After examination of bullet No. 1.) No; I would not attempt to decide on that one. That has evidently penetrated a pretty hard surface, and has become blunted.

Q. Yes. Now take No. 2.—A. (After examination of bullet No. 2.) In the first bullet, No. 1, the marks of the four lands, of course, are perfectly distinct.

Q. The marks of four lands might have been put on that bullet if it had been fired out of a Krag, might they not?—A. Yes, sir; that has four lands, too.

Q. So far as the shape of the bullets is concerned, the Springfield bullets and the Krag bullets are the same weight, are they not?—A. I think they are; yes, sir.

Q. Two hundred and twenty grains?—A. Two hundred and twenty grains. [After further examination of bullet No. 2.] I can't tell anything about this one.

Senator WARNER. Let me say just a word; it may shorten up this examination. My understanding is—I may be wrong—that the bullet in the Krag-Jørgensen cartridge is identical with the bullet in the Springfield cartridge.

Senator FORAKER. Yes, sir.

The CHAIRMAN. That is, in weight. There is a little difference about the point.

Senator FORAKER. Some witness said that, but I had them together a while ago and I could not tell.

Senator WARNER. If there is any difference in them General Crozier would know.

Senator FORAKER. Yes.

Senator WARNER. And we would save all this time.

Senator SCOTT. Did you hear what the witness said about No. 2?

Senator FORAKER. No.

Senator SCOTT. He said he could not tell anything about it.

Senator FORAKER. I am taking this testimony as a matter of precaution. I think they are made in the same mold.

The WITNESS (after examining bullet No. 3). I do not think you

can differentiate between any of these bullets after they have once entered anything offering any degree of resistance.

By Senator FORAKER:

Q. You can not tell the difference in the bullet after it penetrates wood, for instance?—A. No, sir; I do not think they can be distinguished. [After examination of bullet No. 4.] There is nothing to that bullet but the jacket. You can not tell.

Senator SCOTT. Did you hear that?

Senator FORAKER. What did he say?

A. (Continuing.) Bullet No. 4 has nothing to it but the jacket. The lead core has entirely disappeared. [After examination of bullet No. 5.] No. 5 is the same as No. 4. [After examination of bullet No. 6.] No. 6—I can not tell whether it is a Krag or a Springfield.

By Senator FORAKER:

Q. You can not tell as to No. 6?—A. No, sir.

Q. That is all on that. Now, before the Penrose court-martial a Mr. Dennett testified that he was one of the committee of twelve or thirteen or fourteen persons who waited on Major Penrose at the administration building, the next morning after the firing, and that he was told there by some officer—I am not sure but what he mentioned you as the officer—that there had been no inspection made of the guns or the ammunition except by noncommissioned officers. Is that statement, if I have given it to you correctly, true?—A. No, sir; it is not.

Q. Do you remember any such conversation?—A. I do not, sir. I do not know Mr. Dennett at all.

Q. And you never made any such statement as that. Did you hear any such statement made by any other commissioned officer who was present?—A. No, sir. The only other commissioned officer present was Lieutenant Grier. Such a statement would be absurd, because it would be absolutely untrue.

Q. Yes. You had been, all of you, very carefully at work inspecting the guns and inspecting the ammunition, had you not?—A. Yes, sir.

By Senator WARNER:

Q. Have you read over Lieutenant Grier's testimony?—A. I have not, sir.

Q. They asked Lieutenant Grier if he had made any inspection—you remember that—and he said "No," which was correct, because he was not in command of a company?—A. Yes, sir.

Q. And if his testimony in substance says that he imagined the mistake came from that, you know nothing to the contrary?—A. No, sir.

Q. I will not take the time to turn to that. Going back again; the first two shots that you heard, if I am not mistaken, were pistol shots?—A. Yes, sir; that is what they sounded like to me, and what I am convinced they were.

Q. Then you came downstairs; and when was it you heard the other pistol shots, before you got down?—A. Before I got downstairs; yes, sir.

Q. That was all before the heavy firing had commenced?—A. Yes, sir.

Q. And when was it you heard the call to arms?—A. Just as I was coming down the stairs to my lower hall.

Q. And that was when the heavy firing commenced?—A. I would like to amend that. That was when I heard Major Penrose calling out to sound the call to arms, and the call to arms sounded almost immediately after that.

Q. And that was when the heavy firing commenced?—A. I think the heavy firing commenced almost immediately after those first five or six pistol shots.

Q. But between those five or six pistol shots and the heavy firing you distinguished no firing over between B and C barracks—in between B and C barracks?—A. No, sir.

Q. Your company had ball cartridge?—A. Yes, sir.

Q. And retained them all the time you were at Brownsville?—A. Yes, sir.

Q. What other companies had ball cartridge?—A. I do not know, but I understand that B Company had ball cartridges and that C Company used the reduced range, or the guard cartridge.

Q. Yes. We have in the evidence what that is. Do you know why that was?—A. No, sir.

Q. Is it or is it not a fact that orders had been given by the commanding officer to take up all the ball cartridge and issue to the companies this reduced-range cartridge?—A. No, sir; I do not think so. When we left Niobrara I know that I myself received orders from the commanding officer to see that each of my men had 20 rounds of ball cartridge.

Q. I was talking about the order at Brownsville. There is no dispute but what you all had ball cartridge when you left Niobrara?—A. I received no such order, sir.

Q. Do you know of any general orders that you should have nothing but guard cartridge while you were in Fort Brown?—A. No, sir. As I say, I received no order changing the kind of cartridges my men were to have.

Q. And there were no general orders to that effect?—A. Not that I know of; no, sir. No such order came to me.

By Senator OVERMAN:

Q. If there had been a general order, you would have been apt to have gotten it?—A. A post order; yes, sir. I would have gotten a copy of it.

By Senator SCOTT:

Q. Captain, I believe you testified to-day that you were in Cuba?—A. Yes, sir.

Q. And in the battle of San Juan?—A. El Caney.

Q. Were you brigaded or camped in the same division with the Rough Riders?—A. No, sir.

Q. Were you in the battle the same day that they were engaged?—A. The same day; yes, sir; but not near them.

Q. How many of your men were wounded?—A. I think our casualties were in the forties, somewhere. I do not recall exactly, sir.

Q. Did they prove to be good soldiers and stand the fire all right?—
A. Yes, sir; excellent.

Senator OVERMAN. Does he mean 40 out of his company?

Senator SCOTT. Oh, no.

The WITNESS. No, sir; I mean our portion of the brigade.

(Witness excused.)

(At 3.45 o'clock p. m. the committee went into executive session, and at 4.30 o'clock p. m. adjourned until to-morrow, Wednesday, April 3, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Wednesday, April 3, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Warren (chairman), Scott, Foraker, Hemenway, Bulkeley, Warner, Pettus, and Overman.

TESTIMONY OF SERGT. NORMAN MAC IVOR, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Please give us your name in full, Sergeant.—A. Norman Mac-Ivor, Company K, Twenty-sixth Infantry.

Q. Where is that regiment stationed now?—A. At Fort Sam Houston, Tex.

Q. Were you with your regiment and company at Fort Brown last year?—A. Yes, sir.

Q. 1906?—A. Yes, sir.

Q. Can you tell us anything about any cartridges from your company—Springfield cartridges—being sold to people at Brownsville while you were stationed there?—A. Shortly after the company left—a detachment of about 40 men was left back.

Q. You were left there with that detachment?—A. Yes, sir; with that detachment, and during this time there were three men and Lieutenant Hanford, of the First Cavalry, who were at that time making a military map of the southern part of Texas, came into the post, and it seems that those men had ammunition with them for hunting purposes, and there was one man named Private Wall, who belonged to my company, who sold probably about 150 rounds. I ain't sure about the exact number, but he sold it to either a ranger or a river guard; I ain't sure which it was.

Q. Did you see the man who bought it?—A. Yes, sir; I saw the man.

Q. What kind of a man was he?—A. He was a tall man, with an aquiline nose—a thin nose—and a very light-complected man.

Q. Those were Springfield cartridges?—A. Yes, sir.

Q. Can you tell us just about what time that was?—A. It must have been about the 25th of July; somewhere about that date; I ain't sure just what date.

By Senator WARNER:

Q. Who was it sold those cartridges?—A. Private Wall, of my company—Company K, Twenty-sixth Infantry.

Q. Where did he get them?—A. It seems that they were issued him from the company for hunting purposes when they were out on this map-survey business.

Q. It is customary for a soldier to have extra cartridges?—A. He can have them any time for hunting purposes. I am sure there is a provision in the orders from the War Department allowing soldiers ammunition for hunting purposes.

Q. That is the rule in the Army?—A. Yes, sir; I am sure it is.

Q. This man had cartridges and he got 150?—A. Yes, sir.

Q. How many more did he have?—A. I don't know, sir; at least 150.

Q. Was any officer present?—A. Lieutenant Hanford was in charge of the detachment.

Q. What detachment?—A. This military-map detachment.

Q. Was any officer of your company present?—A. No, sir.

Q. Was any noncommissioned officer present?—A. No, sir; it was after the company left. There was no noncommissioned officer present.

Q. Were you a noncommissioned officer then?—A. No, sir; I was on extra duty in the quartermaster's department at that time.

Q. How much did he get for those cartridges?—A. It seems to me it was about a cent a round, if I remember right.

Q. Well, do you know?—A. No, sir; I ain't sure; but by the conversation I heard afterwards I think it was about a cent a round.

Q. Who was in charge of that detachment?—A. Lieutenant Hanford. This occurred after those men came in and were relieved from the detachment.

Q. Was Lieutenant Hanford there?—A. Not when he sold the cartridges: no, sir. He was in the post.

Q. He was present in the post?—A. He was through with his map at that time, and he came into the post to turn in his transportation. He was going back to Fort Sam Houston.

Q. What regiment did he belong to?—A. He belonged to the First Cavalry.

Q. He was not present when these cartridges were sold?—A. No, sir.

Q. Who were present?—A. As I remember, Private Case and Private Wall were the two men that sold the cartridges. I was standing on the upper porch, and I saw them give the cartridges to the man, and they said that they got a cent apiece for them, afterwards—told me afterwards.

Q. Where were they when they delivered the cartridges?—A. They were standing out at the back porch of our company, Company K, Twenty-sixth Infantry.

Q. Where did they get the cartridges from, where had they been keeping them?—A. I do not know, sir.

Q. Did they come upstairs after them, in the barracks?—A. There was only five men in the quarters at the time, and it would be very easy to keep them anywhere, there was so much stuff lying around. In fact, I didn't pay any particular attention until I saw them.

Q. Did you have any surplus cartridges?—A. No, sir; I probably had four or five cartridges.

Q. How would you get those?—A. Well, probably during target season I might get two or three extra cartridges.

Q. How would you get two or three extra cartridges during target season?—A. It is very easy to get them, a person shooting. There is probably a box of ammunition taken out to the range, or two or three boxes, and he can very easily get some extra cartridges if he wants them.

Q. How could you get them? Explain it.—A. For instance, if I wanted to shoot two clips, I could easily take three clips, if I wanted to. If I wanted to I could take three clips, and then I could secrete one clip, if it was necessary, if I needed it.

Q. So that there would be no trouble getting an extra clip if you wanted it, you say?—A. No, sir.

Q. How long have you been in the Army?—A. I have been in since March 29, 1901.

Q. You have been in about six years, then?—A. Yes, sir.

Q. And you are now a sergeant?—A. Yes, sir.

Q. First or second?—A. Simply a sergeant.

Q. A sergeant?—A. Yes, sir.

Q. You call them all sergeants except the first sergeant and the quartermaster-sergeant now?—A. Yes, sir.

Q. What day of the week was this?—A. I don't remember, sir. I didn't make any particular note of it at all.

Q. When did you first mention this?—A. Well, I remembered the thing right along, and probably I have spoken about it on different occasions.

Q. Was there anything strange about it?—A. No, sir; nothing at all, but men speaking about selling ammunition and that sort of thing.

Q. Yes. But there was nothing particular about this transaction?—A. Well, I knew that it was wrong all the time and should not have been done.

Q. You knew that it was wrong all the time and that it was something that should not have been done?—A. Yes, sir.

Q. But it was a customary thing, was it not?—A. I probably knew that some of it was going on down there, but that was the only time it came to my knowledge.

Q. Did you ever sell any?—A. No, sir.

Q. What was the name of the man who sold it?—A. Private Wall.

Q. Where is he now?—A. He is discharged, sir. I do not know where he is.

By Senator OVERMAN:

Q. Do you know the name of the man to whom it was sold?—A. No, sir.

By Senator WARNER:

Q. When was he discharged?—A. I think it was some time—let me see—in January; some time in January, I think.

Q. Of what year?—A. 1907; this year.

Q. At what place?—A. Fort Sam Houston, Tex.

Q. What company did he belong to?—A. K Company; the same company as I do.

Q. And K Company is where now?—A. At Fort Sam Houston, Tex.

Q. Whom did you first tell of this?—A. I don't remember exactly who I first told about it. I probably spoke to several people about it. I don't remember. It was not a very particular occurrence, or probably I would have made some remark about it.

Q. What do you mean by saying that it was not a very particular occurrence?—A. That is, it was not anything that I would happen to pass any remarks on to anybody or make any statements about it.

Q. You are still stationed at Fort Sam Houston?—A. Yes, sir.

Q. How many men were present when this transaction was had?—A. Well, the two men that had the transaction were Case and Wall.

Q. Was anybody else there?—A. No, sir; not present right there, except the man they sold them to.

Q. Was Case present?—A. Yes, sir; Case and Wall and the other man.

Q. Where is Case now?—A. I have no idea, sir, where he is. He was discharged, and I think it was in December; I am not sure, but I think it was some time in December, 1906.

Q. How many men were in the party that did the buying?—A. Only just one, sir.

Q. Just one?—A. Yes, sir.

Q. And how do you describe him?—A. He was a tall man with an aquiline nose; a long thin nose.

Q. An aquiline nose; a long thin nose?—A. Yes, sir; a long thin nose and light complected and with very light hair.

Q. How was he dressed?—A. I couldn't exactly describe his dress, because I didn't pay any attention to him except his appearance, because I remember seeing the man several times. He was either a Ranger or a River Guard man. I had seen the man several times, but never asked his name.

Q. You had seen him several times?—A. Yes, sir; previous to that time.

Q. Did you see him afterwards?—A. No, sir; I do not think so. I left Fort Brown about three days after that, and probably didn't see him after that.

Q. What time did you leave Fort Brown?—A. July 29. Let me see, it was July 30.

Q. Who left there July 30?—A. The detachment.

Q. I know, that is the time you left. When you spoke about leaving there, you meant the detachment?—A. Yes, sir; the 40 men who were left back there.

Q. What other time did you see any ammunition sold?—A. I never saw any ammunition sold except that time.

Q. And this was no particular occasion—nothing particular to impress it on your mind?—A. No, sir; it was not. I knew that ammunition was being sold by the the conversation going around, but I had never seen any of it sold, and could not prove that it was.

Q. I know; but you knew there was talking among the men of selling ammunition?—A. Yes, sir.

Q. About how old a man was this?—A. I should judge about 35; 35 years old.

Q. What kind of a uniform did he have?—A. He didn't have a uniform, sir. He had civilian's dress.

Q. What kind of a cap?—A. He wore a gray hat.

Q. What kind of a shirt, white or check?—A. I don't remember, sir, at all.

Q. Did he wear leggings?—A. No, sir; I do not remember.

Q. You remember that he had a gray hat?—A. Yes, sir.

Q. What impresses the color of that hat on you?—A. Those men down there generally wore gray hats, and I had seen the man several times previous to that, and he always wore a gray hat.

Q. You say he wore a gray hat because men around there generally wore gray hats?—A. No, sir. I had seen him previously to that time, and he always wore a gray hat.

Q. Where had you seen him previous to that?—A. In the town of Brownsville.

Q. Whereabouts?—A. I don't remember exactly whereabouts, but in different parts of the town, on the streets.

Q. Whereabouts—one place in town?—A. I could not answer that exactly. I don't remember seeing him any place exactly. He was generally around everywhere. I never paid any particular attention to the man except that I saw him buying this ammunition.

Q. This man had been out with Lieutenant Hanford?—A. Which man?

Q. This man that got the ammunition—I mean the man that sold it had been out.—A. Yes, sir.

Q. They were not out on a hunting expedition then?—A. No, sir; they were not out on a hunting expedition then, but they could hunt if they wished.

Senator FORAKER. What was that remark?

Senator WARNER. He said that they were not on a hunting expedition, but could hunt if they wished.

The WITNESS. Yes, sir; they could if they wanted to, because there was plenty of opportunity to do so.

By Senator WARNER:

Q. What other opportunities are there for a soldier to get surplus ammunition, excepting when you are on the range firing and for hunting purposes?—A. There are none, sir, that I know.

Q. Where do you keep it? Where do the soldiers keep it usually?—A. Each soldier is supposed to have 10 rounds of ammunition for doing duty.

Q. Yes; but I am talking about the surplus ammunition—about the extra ammunition they had.—A. About the extra ammunition?

Q. Yes.—A. They just keep it in their locker or their barracks bag or secrete it somewhere.

Q. They just keep it in their locker or barracks bag or secrete it somewhere?—A. Yes, sir. They might keep it somewhere else; it is necessary if they have a lot of it.

Q. Did this man have a mustache, the man who bought the ammunition?—A. I don't remember now. No, sir; he did not have a mustache. In fact, I remember now that he did not.

Q. Did he have a goatee?—A. No, sir.

Q. Or whiskers?—A. No, sir.

Q. He was smooth shaven?—A. Yes, sir.

Q. With dark eyes?—A. I don't remember.

Q. And a gray hat. You remember that very distinctly?—A. Yes, sir.

Q. Is there any other particular of his description that you can remember?—A. No, sir; except his nose. He had an aquiline nose.

Q. A thin nose?—A. Yes, sir; a thin nose.

Q. A peculiar nose?—A. Yes, sir.

Q. You remember that nose?—A. Yes, sir; I remember that nose particularly.

Q. That nose kind of struck you?—A. Yes, sir.

Q. You never saw him again?—A. No, sir.

By Senator OVERMAN:

Q. You say it is a very easy matter for soldiers on target practice to filch cartridges?—A. Yes, sir.

Q. That is an easy matter?—A. Yes, sir.

Q. How did they find out up here what you knew about selling this ammunition? Did you write up here and tell them about it?—A. No, sir.

Q. How was it found out?—A. Well, I don't know exactly how it was found out.

Q. Did anybody come to see you and ask what you knew?—A. Not any particular person came to see me. No, sir; there was nobody came to see me. There was one man came to see me, but I told him that I would not tell him anything about the case, and I didn't want to go to Washington.

Q. Do you know what his name was?—A. I didn't know his name. He was a colored man.

Q. He was around there getting up evidence in this case?—A. Yes, sir; I think he was.

Q. Did he go to see every soldier?—A. I don't know. He was in there twice, and I told him I didn't know anything about the case and would rather be left alone.

Q. You did not tell him anything that you knew about this ammunition?—A. No, sir.

Q. He did not ask you anything about that?—A. No, sir.

Q. Did you know what he was trying to find out?—A. No, sir.

Q. Do you know now what he was trying to find out?—A. No, sir; not particularly. He was trying to get evidence, I suppose.

Q. Do you know particularly what about?—A. No, sir; I don't know particularly what about.

Q. If you do not know particularly, do you know generally?—A. I judged he was trying to get up evidence to help the case along.

Q. What sort of evidence?—A. Any sort of evidence. I don't know.

Q. What sort of a man was he?—A. A big, heavy-set man; a colored man.

Q. Was he yellow or black?—A. I don't know. I am not well enough posted on the race question to tell you.

Q. Was he a black man?—A. No, sir; he was a dark man.

By Senator FORAKER:

Q. You were never in the Twenty-fifth Infantry?—A. No, sir.

Q. Whether somebody came to see you or not, you are telling the truth now?—A. How is that, sir?

Q. I say, whether somebody came to see you or not about what you are testifying to, you are trying to tell the truth about these things now?—A. Yes, sir.

By Senator WARNER:

Q. You were asked the question by Senator Overman whether this man was a mulatto, and I understand you to say that you are not well enough posted on the race question to tell?—A. No, sir.

Senator OVERMAN. He said that he was a dark-complexioned man.

The WITNESS. Yes, sir.

By Senator WARNER:

Q. Most colored men are dark complexioned, are they not?—A. Yes, sir.

Q. Was this man black, or simply light colored?—A. He was dark complected.

Q. Well, I am "dark complected"—supposed to be—but that would hardly be distinctive.—A. Well, what I mean by that is, the color of his skin was somewhat dark.

Q. It was somewhat dark?—A. Yes, sir.

Q. And he was a large man?—A. Yes, sir; a large man.

Q. Have you seen him since?—A. I do not remember that I have seen him since.

Q. You say you have not?—A. No, sir.

Senator WARNER. That is all.

By Senator FORAKER:

Q. Did you know you were coming here until you got the subpoena?—A. No, sir; I did not know anything about it.

Q. You do not know yet how you happened to come here?—A. No, sir.

Senator FORAKER. That is all.

(Witness excused.)

TESTIMONY OF SECOND LIEUT. HARRY GRIFFIN LECKIE, U. S. ARMY.

(The witness was sworn by the chairman.)

By Senator FORAKER:

Q. Give us your name in full, so that we may have it in the record.—Harry Griffin Leckie.

Q. Are you in the United States Army?—A. Yes, sir.

Q. What regiment do you belong to?—A. Second lieutenant, Twenty-sixth U. S. Infantry.

Q. How long have you been connected with that organization?—A. Since August 14 or 15, 1902, sir.

Q. 1902?—A. Yes, sir.

Q. How long have you been in the Army altogether?—A. Five years the 22d day of May, sir.

Q. Were you at West Point?—A. No, sir; I was appointed from civil life.

Q. What State were you appointed from?—A. Virginia, sir.

Q. Whereabouts in Virginia?—A. Lynchburg, sir.

Q. State whether you were with your regiment, or your company, I will say, while it was stationed at Fort Brown, Brownsville, Tex.?—A. I was with the Third Battalion, sir—part of the time battalion quartermaster and part of the time with Company I—from the 6th day of September, 1902, to the 2d day of June, 1903.

Q. There is a map at your left, Lieutenant. I wish you would look at it and see whether or not you understand it or need any explanation to understand it.—A. No, sir; I think I understand it, sir.

Q. You think you do understand it?—A. Yes, sir.

(The map was here further explained to the witness by Senator Scott.)

By Senator FORAKER:

Q. Can you tell us whether or not those barracks are painted?—A. Yes, sir.

Q. And if so, what color they are?—A. The barracks are lead color, sir.

Q. Did you have anything to do with painting them?—A. Yes, sir; I was constructing quartermaster at the time.

Q. When were they painted?—A. They were painted—I am not positive exactly, but along from December to March of last year.

Q. Last year?—A. Yes, sir.

Q. A few months before your battalion left there?—A. Yes, sir.

Q. And you superintended that?—A. Yes, sir.

Q. Is that a dark-gray color?—A. Yes, sir.

Q. Lead color?—A. Very dark, sir.

Q. Can you tell us anything about that wall that separates the reservation from the city of Brownsville; how high it is; of what character it is, and if you had anything to do with it?—A. The wall is of brick, running from 3 feet 4 to 5 feet 8.

Q. In height?—A. Yes, sir. It is about 3 feet 4 at the entrance gate.

Q. On each side?—A. Yes, sir. It gets gradually higher until at the corner, where it turns, where the wire fence commences, a little higher up [indicating on map].

Q. Does the wire fence commence at the east end of the vacant barracks?—A. Yes, sir; it commences about here [indicating].

Q. And it is how high there?—A. It is about 5 feet 8 inches, sir.

Q. How high is it behind B barracks, at the mouth of what we call Cowen alley, between Elizabeth street and Washington street?—A. It is about 3 feet 6.

Senator WARNER. How much?

The WITNESS. Three feet 6 or 7 inches—thereabouts.

By Senator FORAKER:

Q. Why is it that that wall is of different heights as you go along it? Is that because of the surface of the ground, or is it built higher?—A. The wall is built higher. The ground is about level. The wall runs up gradually; I do not know why.

Q. That is a brick wall?—A. Yes, sir.

Q. How thick is the wall?—A. The wall is about 2½ bricks thick.

Q. Two and a half bricks?—A. Yes, sir.

Q. That would be in thickness—A. About 13 inches.

Q. Has it a cap on it?—A. No, sir.

Q. Is there a light on it?—A. Yes, sir; there is a light here [indicating], with one-half inch burners in it.

Q. What kind of light is that at the gate?—A. That is just a half-inch burner.

Q. What do you mean by a half-inch burner? Can you tell us how high it is in candlepower?—A. No, sir; I can not. I should judge it is about 8.

Q. Eight candlepower?—A. Yes, sir; I am not positive of that.

Q. Does it burn gasoline or kerosene?—A. Kerosene, sir.

Q. Kerosene?—A. Yes, sir.

Q. How are the other parts of the reservation lighted up, if at all?—A. They are lighted by street lamps, sir. There is one in front of each barracks.

Q. Just one in front of barracks?—A. One in front of each barracks, sir. There is no light in the back of the barracks.

Q. How far are they from the barracks?—A. Well, they are between the barracks and the walk, and the walk is about 20 to 25 feet from the barracks, and in some places the light is put right where the walk enters the barracks—the walk from the barracks to the main walk.

Q. Where is the company parade ground; outside of that walk toward the parade ground or between the barracks and the—A. This was an infantry parade ground. We had no cavalry there.

Q. I know; but when the company formed, they would go out how far from the barracks?—A. There are a lot of trees in here, and the company is formed just outside of those trees.

Q. There are a lot of trees running all along?—A. Yes, sir.

Q. What kind of trees are those; large trees?—A. Large trees, sir. Some of them are china berry, and I do not know what the others were.

Q. I only wanted to know whether they were large or small.—A. Yes, sir; they are good-sized trees; 12 to 14 inches.

Q. Can you tell us about the lights in the streets of Brownsville? What is the character of the public lighting there?—A. The lights in the streets are on iron poles. The poles are 13 feet high, and from the ground to the burner it is a little over 11 feet, and the wicks are half-inch wicks, and they burn kerosene, and it has a globe over it, and this lamp is in a box with four glass panes in it.

Q. So that the light shines out through two thicknesses of glass?—A. Two glasses. The outside glass is just ordinary window glass.

Q. What kind of glass is that box?—A. Ordinary window glass. I should think it would cost about 5 cents a pane.

Q. And they are all kerosene lamps?—A. Yes, sir; they are all the same kind of lamps.

Q. All the same kind of lamps all over the city?—A. Yes, sir.

Q. All kerosene?—A. Yes, sir.

Q. How near together are those lamps?—A. Some corners have a lamp, but not all the corners. For instance, there is a lamp here, sir.

Q. That is at the corner of Washington and Thirteenth streets?—A. And Thirteenth street.

Q. There is a lamp there?—A. There is a lamp there; and these other three corners have no lamps.

Q. You are pointing to what? I never can tell the directions. Is that the southwest corner? I suppose it is.—A. That is south, this way, and this would be the west side of the street, sir [indicating].

Q. I should have said southwest.

Senator WARNER. For convenience we have been calling from Elizabeth street to Washington street east. It is really northeast, but we have been calling it east.

By Senator FORAKER:

Q. I should have said it was the southwest corner to which you were pointing?—A. Yes, sir.

Q. I only wanted to know so that we would have it indicated in the record. Now, there is a lamp at that point. Is there a lamp at either corner of Washington and Fourteenth streets, if you remember?—A. Fourteenth and Washington streets?

Q. Fourteenth and Washington.—A. That I can not say, sir.

Q. Going down now to the Cowen alley. Are there any lamps in that alley?—A. No, sir.

Q. It is just a dark alley?—A. Just a dark alley.

Q. I mean there is no artificial light?—A. No, sir.

Q. Take Elizabeth street next, and tell us where the lamps are located there, if you know.—A. There is one here, sir, at the Leahy Hotel corner.

Senator WARNER. When you say "here," that is Fourteenth and Elizabeth streets?

The WITNESS. Yes, sir.

By Senator FORAKER:

Q. That would be the southwest corner?—A. That is the Leahy Hotel [indicating].

Q. What corner would that be?—A. That is the east side of Elizabeth street.

Q. On the east side of Elizabeth street and on the north side of that cross street—Fourteenth street?—A. Yes, sir. Then there is one across here on Thirteenth street, where this star is on this map.

Q. And then there is one at the other corner down below there, or do you remember?—A. There is one here right near the bank.

By Senator OVERMAN:

Q. What street is that—the corner of what streets?—A. That is Twelfth and Elizabeth streets.

By Senator FORAKER:

Q. Are the lights over the city generally about as you have described them in the section you have indicated?—A. Yes, sir.

Q. So that there is one kerosene light that shines through two glasses, on an average, at each corner?—A. Yes, sir.

Q. At the corner of each square?—A. Yes, sir.

Q. And that is about eight candlepower, you think, as I understand you?—A. Yes, sir.

Q. About how long are those blocks, or squares, if you can tell us? That is, how far is it from Fourteenth to Thirteenth street? If you can, tell us how far it is from Elizabeth street up to Washington street, if you know?—A. I would say about 250 yards, sir; 200 or 250.

Q. Two hundred and fifty feet, you mean, instead of yards? Two hundred and fifty yards would be a pretty long square, would it not? That map is 30 feet to an inch.—A. It is 157 feet from the post wall to that point there, sir [indicating].

By Senator OVERMAN:

Q. What point is that?—A. That is the Cowen house, and that is Fourteenth street, and the alley here; so that, according to that, that would be about 200 feet.

Senator FORAKER. Supposing that that is 30 feet to the inch, tell us how long those squares are?

Senator OVERMAN. You were stating, I think, before they interrupted you, the distance from the Cowen house back to the wall; you seem to have measured that?

The WITNESS. It was either 157 or 175 feet. I can not be positive, sir.

Senator OVERMAN. Oh!

By Senator FORAKER:

Q. Now, you measured that distance, did you, Lieutenant?—A. Yes, sir.

Q. Tell us when your battalion left there?—A. My battalion, I think, left there in July. I was on leave at the time. I left there on the 2d of June.

Q. You were not with them when they left?—A. No, sir.

Q. You left on June 2?—A. Yes, sir.

Q. Did you at any time after that return to Brownsville, and if so when, and how did you happen to return?—A. I was in Brownsville in October, about the 22d to the last of October, on a hunting leave.

Q. And then how long were you in Brownsville at that time?—A. I was there from about the 20th of October to the 1st of November.

Q. Where did you make your headquarters while you were there?—A. While I was in Brownsville I stayed at the Leahy Hotel.

Q. Before I examine you as to what occurred at that time, state whether or not at any subsequent time you returned to Brownsville—at any time after October.—A. I was in Brownsville, sir, the last part of February and the first of March.

Q. Of this year?—A. Yes, sir.

Q. How did you happen to go back there at that time?—A. I was ordered down there the first time by the Secretary of War in regard to the lagoon there, for an investigation of the lagoon.

Q. What were you ordered to do in connection with the lagoon?—A. I was ordered to investigate it and see whether it was necessary to have it drained and put in a pipe for letting fresh water into it, sir.

Q. That was in February?—A. Either the last of February or the first of March.

Q. Did you return there still another time?—A. I was there in March; I was ordered there by the department commander.

Q. By General McCaskey?—A. Yes, sir; in regard to the affray of the night of August 13.

Q. What did he order you to go there for?—A. To investigate the direction of some of the shots there, and to investigate what could be seen from the windows, and to make a general investigation, sir, of the affair.

Q. And in pursuance of that order you went there and executed that order, did you?—A. Yes, sir.

Q. Is that how you happen to be familiar, in the way you have already indicated, with the locations of lights and other things?—A. Yes, sir.

Q. Did you make a written report?—A. No, sir.

Q. You just reported orally?—A. Yes, sir.

Q. You were examined before the Penrose court-martial on all these subjects?—A. Yes, sir.

By Senator OVERMAN:

Q. To whom did you make this report?—A. I was put on the stand as a witness.

Q. I know, but you made a report to your commanding officer that sent you there, did you not?—A. I just reported my return to the post.

Q. You did not report the facts you were sent to ascertain?—A. I reported the facts to the officer that was giving me instructions from the department commander.

Q. Who was that officer?—A. Part of it was to one of his aids, sir; and one was to—

Q. I do not know his aids. Who was he?—A. Well, Lieutenant McCaskey of the Fourth Cavalry.

By Senator FORAKER:

Q. Lieutenant McCaskey of the Fourth Cavalry, an aid on the staff of General McCaskey?—A. Yes, sir.

Q. At any rate, you went. You have been there repeatedly. Now, we will go back and take up those visits in their order. You went there in October on the hunting trip, I understand you to say?—A. Yes, sir.

Q. During your leave?—A. Yes, sir.

Q. Where did you say you stopped during the time you were in the city?—A. While I was in Brownsville I stopped at the Leahy Hotel.

Q. State whether or not you made any observations at that time as to conditions in Brownsville resulting from this shooting affray.—A. Well, sir; in one instance there was a hole made by a bullet pointed out to me in front of the Crixell saloon.

Q. Locate that saloon, if you can, on the map. We have another, smaller map here.—A. I am familiar with that smaller map, sir.

Q. That is attached to part No. 2 of Senate Document 155. Who called your attention to that bullet hole?—A. Mr. T. Crixell and others; I do not remember their names. Mr. T. Crixell and other parties who were standing there in that saloon, sir.

Q. Where is that saloon?—A. That saloon is about here, sir [indicating.]

By Senator OVERMAN:

Q. Between Thirteenth and Fourteenth streets?—A. Between Twelfth and Thirteenth streets.

By Senator FORAKER:

Q. Just locate that, if you can, on the map, and tell us where that saloon is. On which side of Elizabeth street is that saloon as you go up from the barracks?—A. It is on the south side of the street going up from the barracks.

Q. We call that the west side. As you go up town—A. This is the west, as I understand [indicating].

Q. As you go out of the gate and go up town it is on the left hand?—A. Yes, sir; on the left side.

Q. Look at the map and tell us between what streets it is located.—

A. It is between Twelfth and Thirteenth streets on Elizabeth street.

Q. Between Twelfth and Thirteenth; and what is immediately opposite it?—A. The Ruby saloon; the Tillman saloon—it is the same thing.

Q. The Tillman saloon is on the right hand as you go up, and opposite it is the Crixell saloon on the left hand side of the street?—

A. That is about in there; yes, sir [indicating].

Senator FORAKER. I do not know what that is intended to represent.

Senator OVERMAN. That is 3 and 8.

Senator FORAKER. No. 8 is the Tillman saloon.

Senator OVERMAN. Yes; No. 8 is the Tillman saloon.

By Senator FORAKER:

Q. No. 8, the black spot you pointed to, is intended to represent Tillman's saloon?—A. Yes, sir.

Q. This saloon you speak of is immediately opposite, is it—Crixell's saloon?—A. Yes, sir; it is about here.

Q. Is there more than one saloon there kept by a man by the name of Crixell?—A. Yes, sir; one of the Crixell brothers has a saloon over near the market, known as the market saloon, the White Elephant, I believe.

Q. He keeps the White Elephant?—A. I think it is the White Elephant. It is right opposite the market.

Q. The man who keeps that saloon is a different man from the man who keeps the White Elephant?—A. Yes, sir; he is his brother.

Q. Where was this bullet hole that you speak about? Where did you find it when it was pointed out to you?—A. The bullet hole was about 3 feet from the ground and in a 2 by 4 upright supporting a shed over in front of Crixell's saloon.

Q. An upright?—A. Yes, sir.

Q. This was a shed coming out over the sidewalk?—A. Yes, sir; it covered the sidewalk entirely.

Q. A sort of an awning?—A. It was made of tongue-and-groove stuff—regular flooring, I think, sir, the top of it.

Q. Yes.—A. With these 2 by 4s every 15 feet or so to support it.

Q. Was it Crixell, the proprietor, who pointed it out to you?—A. Yes, sir.

Q. How did he come to point it out to you?—A. There was a good deal of talk going on at the time, and I did not take any part in it; but he says, "Come out here, and I will show you how near they come to getting us," or something to that effect, and he went out and showed me this post, and he said, "That is one of the shots fired that night," and I said, "You are mistaken about that." I said, "That is about a .44 or .45." He said, "No," and some of the others spoke up and said it was not any mistake, they knew what it was and they knew what they were talking about, and I said, "Let us cut it out," and I started to cut it out with my pocketknife, and Crixell went in the bar and got a brace and bit and we bored it out, and it was a lead bullet, with no steel jacket, soft lead, and I should judge the

bullet weighed about 220 grains; between 180 and 220 grains. But in cutting it out we cut it in small pieces.

Q. So that you destroyed the bullet—the entirety of the bullet?—A. Yes, sir.

Q. But you got it all out?—A. We got it all out. It was in a piece of soft pine 2 inches thick.

Q. It was all lead?—A. It was all lead.

Q. With no steel jacket on it at all?—A. No steel jacket at all.

Q. And no pieces of steel around about the bullet?—A. No, sir.

Q. You examined carefully about that, did you?—A. Yes, sir.

Q. Who all were present when that occurred?—A. Mr. Crixell and Mr. Matlock and some others; I do not remember who they were.

Q. Mr. Matlock was connected with the quartermaster's department?—A. Yes, sir; he was a quartermaster's clerk.

Q. He was present and saw this?—A. Yes, sir.

Q. What did you do with that bullet?—A. I wrapped it up in a cigarette paper and put it in some of my hunting clothes, and I have not been able to find it since.

Q. You lost it?—A. Yes, sir.

Q. Have you been able to find it since?—A. No, sir.

Q. But your recollection is positive as to the character of the bullet?—A. Yes, sir; I am positive, on account of there being so much argument about it at the time.

Q. Is there anything else that occurred in connection with that visit to Brownsville that we ought to know about?—A. No, sir; nothing of importance. There was a good deal of talk.

Q. Well, pass that by for the present. Then you returned to your post at Fort Sam Houston, did you?—A. Yes, sir.

Q. After your leave was over?—A. Yes, sir.

By Senator OVERMAN:

Q. Was that the time you were sent to look at the lagoon?—A. No, sir; that was the time that I was on hunting leave.

Senator WARNER. That was in October.

By Senator FORAKER:

Q. Then, you went back in November. How long were you there that time?—A. I went back there either the last of February or the first of March, and I was there, I do not remember whether it was five or six days.

Q. Did you gather up any information with regard to this shooting affray that you think would be valuable to us? I do not know what you know. If you know anything, tell us.—A. No more than what I did when I was sent down by General McCaskey. I made a full investigation then.

Q. Well, pass to that at once. How long were you there when you went down by order of General McCaskey?—A. I was there three days.

Q. You were instructed by him to do that?—A. I was instructed to investigate this affray in Brownsville on August 13—the night of August 13.

Q. With special reference to what?—A. I was instructed to see what parts of the barracks I could see from the different windows of the Leahy Hotel and to trace the shots that went into the Cowen

house, and to examine the lights and see what I could tell at night, and how far the light would throw, and how much light there was, and how far a person could be recognized at night, and to trace the shots fired into the Western Union office.

Q. Did you have any instructions about a man by the name of Allison, who was supposed to be in prison down there?—A. Yes, sir; I was instructed, or requested rather, to go and see Allison and see what the charges were against him and why he was there.

Q. Did you do that?—A. Yes, sir.

Q. Inasmuch as that was an individual matter by itself, I will ask you, first, who this man Allison was?—A. He was a discharged soldier from the Twenty-fifth Infantry.

Q. Is he the man who had started a saloon, as you understood?—A. Yes, sir. He started a saloon up on what is known as the firing line.

Q. Can you tell us where that saloon was located?—A. No, sir; I have never been there.

Q. You did not go up to that place?—A. No, sir.

Q. Did you find the man?—A. Yes, sir.

Q. Where did you find him?—A. In the Cameron County jail.

Q. How long had he been there?—A. He had been there, sir, since about the 1st of September, 1906.

Q. And this was in March?—A. Yes, sir.

Q. 1907?—A. Yes, sir. He was put in the guardhouse a while, and then sent to the jail after things quieted down.

Q. Upon what charge was he then in the jail?—A. Assault with attempt to murder.

Q. Upon whom?—A. A colored brakeman on the St. Louis, Brownsville and Mexican Railroad. His first name was Dee. I do not know his last name.

Q. What is that name?—A. D-e-e.

Q. Was he a colored man?—A. Yes, sir.

Q. Did you investigate that charge?—A. I investigated it. I saw this man Dee, and he told me that the night that Allison was charged with the assault with attempt to murder that he was in there, and several other brakemen and, I think, one or two negroes of the town.

Q. They were in where?—A. Were in this man's saloon.

Q. Which man?—A. In Allison's saloon.

Q. In Allison's saloon. Go on.—A. And that they were drinking—and in fact all of them were under the influence of liquor at the time—and that he had been drinking with this man Allison, and he had given him credit, and everything, and that they were good friends, and that they were always running on, joking with one another; and he said that the next day he was told by a negro named William Henry that Allison attempted to kill him, and he said he paid no attention to it because he knew there was no truth in it; that Allison had no reason on earth to want to kill him; but during the talk that night this William Henry said the reason was that Allison said he told him he was going to kill him, was because he thought he was a Mexican officer, and this man Dee stated to me that he simply said that joking; that they were joking with each other at the time.

Q. Did this man Dee prefer charges against Allison at any time?—A. No, sir. I took him up before Mr. Kleiber, the prosecuting attor-

ney, and he made the same statement to him, that Allison had not made any attempt to assault him or murder him, and Mr. Kleiber said, "That is different from what you told me;" and he said no, it was not different; that they may have twisted his words.

Q. What did you find about Allison, as to his mental condition?—

A. I think the man is going crazy, sir.

Q. Had he had any preliminary examination or trial of any kind?—A. He was indicted.

Q. I know; but up to the time you were there? He has been indicted since, has he not?—A. No, sir; he was indicted just before I went there.

Q. Before you went there. But did he have any trial at the time he was arrested?—A. Not that I could find out. A great many people there did not seem to know that the man was in jail. When I was there on the trip before that many of the people told me he was in Mexico.

Q. But he was in jail?—A. He was in jail all the time.

Q. And he was indicted just before you got there. Has he been tried since then?—A. No, sir; he will not be until the next term of court.

Q. You investigated all that?—A. Yes, sir.

Q. When will the next term of court commence?—A. About next September.

Q. So that it will be about a year since he was arrested before he can be brought to trial?—A. Yes, sir.

Q. Did Allison protest his innocence of any offense?—A. Yes, sir; he said that he wasn't guilty of anything. I asked him why he thought they had him in there, and he said he thought that it was because they wanted to keep him from testifying before any court, and to prevent him from using his liquor license.

Q. You made that investigation in pursuance of orders under which you went there?—A. Yes, sir.

Q. It was not a volunteer matter on your part?—A. No, sir.

Q. Now, come to the other part of your instructions. You have already told us about the lights and about the length of the squares. Going now to the Cowen house, I understood you to say that you were instructed to investigate and report as to the places where that house had been fired into, and from where, perhaps. Before you do that, let me ask you whether that Cowen house stands as indicated there, directly on the corner, and give us your testimony about it.—A. The Cowen house is located about correctly. It is a little too far over from the alley, according to the scale.

Q. It is right on the alley, is it not?—A. Here is the alley, here, and I suppose that is meant to represent the fence [indicating]. Yes; that represents the fence back there, and the house is too far back in the yard, back this way, toward Elizabeth street. This house runs back farther than this map gives it [indicating].

Q. Let me call your attention to the picture of the house in part No. 2 of Senate Document 155. We understand, Lieutenant, that those lines there represent the boundaries of the alley on that map?—A. Yes, sir.

Q. Can you tell how wide that alley is?—A. That alley is about 20 or 24 feet wide, sir.

Q. There is a space indicated on the map, is there, between the house and the line of the alley?—A. Yes, sir.

Q. I did not see it from here. That explains what you were saying. The alley is how wide?—A. About 20 or 24 feet.

Q. Some one has testified that it is only 16 feet. Did you measure it?—A. I did not measure the alley, sir.

Senator OVERMAN. Let him measure it now.

By Senator FORAKER:

Q. Take the rule and measure it now.—A. I do not think the scale of that map is correct, sir. [After making measurement.] That gives it about 19 feet, sir.

Q. About 19 feet?—A. Yes, sir.

Q. Some one testified that it was 15 feet.—A. I have been in there a good many times and it is about 20 or 24 feet.

Q. Can two teams pass each other there, going in opposite directions?—A. Yes, sir; they could do it.

Q. You think it is wide enough for that?—A. Yes, sir.

Q. Sixteen feet would be wide enough for that?—A. Yes, sir.

By Senator OVERMAN:

Q. Is there any pavement along that alley?—A. No, sir.

By Senator FORAKER:

Q. It is not paved. Is the alley itself paved?—A. No, sir; the streets are not paved.

Q. Here is the picture of the Cowen house, picture No. 12, in the second part of Senate Document 155. Using that picture, describe it to the members of the committee.—A. That picture does not show where the shots entered the house.

Q. What front is that in the picture?—A. That is on Fourteenth street. That is the front of the house.

Q. The house fronts on Fourteenth street?—A. Yes, sir.

Q. And it does not front on the alley?—A. No, sir.

Q. Which end of that house is toward the alley?—A. This end [indicating].

Q. That is the left-hand side of the picture?—A. The left-hand side, facing the picture.

Q. Facing the picture?—A. Yes, sir.

Q. Now, where did the shots enter that house?—A. I can not show it from the picture.

Q. Just go to the map and show us. Let me ask you, is there an L running back in rear of that house, a kitchen or anything?—A. No, sir; I think the kitchen is in a yard. There is no L.

Q. Go on in your own way.—A. That is the alley running down, and the last window on the alley side of the house is located about there [indicating], and most of the shots were fired in that window.

Q. When you say "about," that is in the corner?—A. Yes, sir; that window is located about 10 or 12 feet—about 8 feet from the back of the house.

Q. The window is?—A. Yes, sir.

Q. Eight feet back, then, from Fourteenth street?—A. No, sir; from the yard, sir. Most of the shots were shot through that window. One of them went in that casing, in the window casing. The rest

of the shots were fired in this second window at the back of the house and came in a line from the back gate, about there, into the second window [indicating].

Q. So that the shots were fired into the house from some point in the alley, as I understand you to indicate?—A. All of the shots in that house came from the alley, the back alley. No shots in the front of the house.

Q. And the point they were fired from was somewhere in the alley?—A. These shots were fired across in the alley, standing facing the window, and the second place the shots were fired from the gate, and there is a fence there just about the right height for a man to aim over, to rest his gun on and aim over.

Q. Were any shots fired into that house, so far as you could determine, from the corner of Fourteenth street and the alley?—A. No, sir; I made a thorough examination of it and went all over it, and I could not find any shots.

Q. There were about how many shots you found that had been fired into that house?—A. There were about 20.

Q. About 20 shots. Twenty holes, or 20 separate bullets?—A. Twenty separate bullets went in there.

Q. Twenty separate bullets all went in from some point in the alley?—A. Into those two windows, sir.

Q. Is that the rear part of the house?—A. This is the rear part of the house. This is the side facing the alley. Most of the shots, the majority of them, went in this window on the alley side.

By Senator WARNER:

Q. When you speak of the rear part of the house, you mean—
A. The back of the house, sir.

Q. The back of the house, toward garrison road?—A. Facing the garrison, sir.

By Senator FORAKER:

Q. They entered the two windows chiefly?—A. Yes, sir.

Q. Now, where did the shots go when they went into the house?—
A. They went through this partition here [indicating].

Q. That is what, a partition?—A. Here is a bedroom, and that is what they used as a dining room. Those shots that came through this window facing the alley went through this partition and through this partition here, and one of them struck here and went over into this bedroom and broke the mirror in a wardrobe.

Q. That is the shot that has been reported that it came through some other window?—A. The alignment is through the casing of the door. I put a steel rod in there and aligned the shot.

Q. And it came through that window?—A. Yes, sir. Now, the shots through this window [indicating] came into this room. Two went in and one of them went over and struck a dresser that was in this corner and went through into the drawer and went out again.

Q. They went pretty much all over the house, did they?—A. The most of them went in this back part of it, sir. Only about three shots in this room and in this one [indicating].

Q. Only about three shots in the front part of the house?—A. Yes, sir. There were no shots struck this side of the house facing the street. No shots came through it and no shots struck it.

- Q. No shots struck it?—A. No, sir.
Q. And no shots struck the front of the house?—A. No, sir.
Q. It did not seem to have been fired on at all from the front?—A. Not at all, sir.
Q. From the Thirteenth street side?—A. No shots of a high-power gun. The windows were open. Some low-caliber gun may have been fired in there and shots struck the floor.
Q. I am talking about the bullet holes you saw, simply.—A. Yes, sir.
Q. Now, where is the Garza house?—A. Right here [indicating].
Q. Right opposite?—A. Yes, sir.
Q. Did you examine the bullet holes in that?—A. Yes, sir.
Q. How many were there?—A. I found two.

By Senator OVERMAN:

- Q. What house is that?—A. The Garza house.

By Senator FORAKER:

- Q. Where did they seem to have been fired from?—A. There was one shot, sir, that struck near the floor, about 6 inches from the floor, and 14 or 18 inches from the corner of the house, and was fired from about here, from the alignment, and struck over here and went out [indicating]. It gave an alignment, by the two holes, about there [indicating].
Q. Could any of those shots you saw in either the Garza house or the Cowen house, according to the alignment as you determined it, have been fired from the barracks?—A. No, sir. No, sir; they were not. You see, this house would prevent firing from the barracks [indicating].

By Senator HEMENWAY:

- Q. What is the number of that house on the map, to which you point?—A. That is No. 9, there. I do not know whether it is the number of the house, but it is 9 on the map.

By Senator FORAKER:

- Q. That is the Martinez house?—A. Yes, sir; the Martinez cottage.
Q. Did you examine, when there, as to shots in the Martinez house?—A. One went through the window there, sir [indicating].
Q. Where did that appear to have been fired from?—A. That was fired from this road running along here, sir.

By Senator OVERMAN:

- Q. The garrison road?—A. Garrison road, a part of the Government reservation.

By Senator FORAKER:

- Q. About what point, as near as you could determine, was that fired from?—A. It was fired in this window, the first window nearest the alley in front of the house, and went through the floor and, I think, was found in a barrel of lime or cement.
Q. About how far up from the ground was it where it struck the house?—A. About 3 feet 8 or 9 inches.
Q. Could that shot, so far as you could determine, have been fired from the barracks?—A. I think the wall is too high there for it to

have been fired from the barracks. It could have been fired down, sir; it is possible. But the wall is too high.

By Senator OVERMAN:

Q. It could have been fired just outside of the wall?—A. Yes, sir; there is the wall, and the house is right here, and it could have been fired outside of the wall.

By Senator FORAKER:

Q. So far as you could determine, your conclusion was that it was probably fired somewhere outside of the wall, in the street?—A. Yes, sir; I think it was fired from outside the wall.

Q. Now, look at the Western Union telegraph office. I think you said you were instructed to examine that?—A. Yes, sir.

Q. That is No. 1 on that map?—A. Yes, sir.

Q. Did that have a bullet hole in it?—A. That had one bullet hole. That shot went in the upper story, in the shingles, and deflected down and went into the bedroom.

Q. Did you ascertain or seek to determine where that was probably fired from?—A. The alignment of that shot was from about here; right in there [indicating].

Q. You are pointing now to a spot in the Garrison road outside of the reservation wall?—A. Yes, sir.

Q. And in rear of B barracks?—A. Yes, sir.

Q. And could that shot, according to the alignment as you determined it, have been fired from D barracks?—A. From D barracks?

Q. Yes.—A. No, sir; there is the location, sir.

Q. The alignment missed the barracks entirely?—A. Yes, sir. By putting a rod through there and going outside, the line strikes about the foot of the wall.

Q. You put a rod through the bullet hole, did you?—A. Yes, sir.

Q. Now, what other house did you examine as to bullet holes? Coming down the alley, now, did you go to the Miller Hotel?—A. Yes, sir.

Q. Did you examine that?—A. Yes, sir.

Q. That is the Miller Hotel [indicating on map]?—A. Yes, sir.

Senator WARNER. The Miller Hotel is marked 5 on the map.

By Senator FORAKER:

Q. Where did you find bullet holes in the Miller Hotel?—A. There is one that went in a window, located about there on the alley. A shot went through the framework—no; it went through the wire screen, a mosquito screen—just about 2 feet 8 inches up from the sill of the window.

Q. Where did it go when it went through?—A. It kept straight up, sir, and went through the floor of the third story, and, I think lodged in the wall.

Q. Is that the shot that a Mrs. Odin testified about as going through her hair?—A. I have heard about that, sir. I was told of it.

Q. You have had a good deal of experience in observing bullets fired out of high-power rifles, have you not?—A. Yes, sir.

Q. State whether or not, if that bullet had gone through her hair, she ever would have testified about it?—A. It would have been a miracle if she had. I do not think she would.

Q. It would not have to hit her head in order to—A. She would not have testified for some weeks, at any rate, if she had ever testified. I have seen large game killed by barking them; they were not struck by the bullet at all.

Q. By what?—A. Just barking them.

By Senator OVERMAN:

Q. Did she say that she was struck or barked?—A. I do not know that she did.

Q. It might have whistled close to her; it might have gone through her hair if she had a heavy suit of hair?—A. It might have whistled within 10 or 15 feet of her, sir; she was in a closed room.

By Senator FORAKER:

Q. One of those shots does create a concussion of great force and power?—A. Yes, sir.

Q. So that it would affect an individual if it came that close to him?—A. If a shot passed through this room it would move all these papers on that table.

Q. If it went through this room?—A. Yes, sir; if it went through this room it would move all the papers on this table.

Q. If it went through here anywhere?—A. Yes, sir; if it went through here anywhere. If it went close to the ceiling it would move all these papers, sir.

Q. We will pass that. Could you tell where that shot was fired from?—A. That shot was fired from the alley; fired right straight up.

Q. It could not have been fired from the barracks?—A. No, sir.

Q. Now, were there any other shots in the Miller Hotel that you examined?—A. Yes, sir; there was one shot through the window here, sir, and one under the window farther down, and then one shot went through the window casing of the window nearest to the alley on the Thirteenth street side [indicating].

Q. Where were those shots fired from?—A. Those shots were fired from somewhere in this alley, sir. They could have been fired from somewhere 10 or 12 feet from the alley and Thirteenth street, or somewhere down here [indicating].

Q. I will ask you if there is not a building standing opposite the Miller Hotel on Thirteenth street—the King Building?—A. Yes, sir. James B. Wells's office is in it; right along here.

Now, could those shots have been fired from down where you indicated, below the King Building, to strike the Miller Hotel?—A. This back part of the building is 20 or 22 feet high, and it is 31 feet from the third story window to the ground, and they would have had to have gotten far enough down the alley to have fired over that building, or they would have had to have been right here [indicating].

Q. So that all those shots were on the Thirteenth street side of the Miller Hotel?—A. Yes, sir.

Q. And they were all necessarily fired from either a point in the alley right at Thirteenth street, practically, or from a point in the alley a considerable distance down, to admit of their firing over the King Building?—A. Yes, sir.

Q. There was another house—the Starck house—that was fired into. Did you look at that?—A. Yes, sir; that is on Washington street, sir. There it is [indicating on map].

Q. That is on Washington street?—A. Yes, sir.

Q. See if that is what it says on the index to the map there.—A. Yes, sir; that is the Starck house.

Q. Did you examine to see if that had been fired into?—A. Yes, sir; there were five or six shots in there.

Q. I only wanted to know where they were fired from, as nearly as you could determine.—A. They were fired from Washington street.

Q. They were not fired from the barracks and could not have been?—A. No, sir; they could not have been.

Q. I think I missed one house—the Yturria house. That is up near the fort there.

Senator WARNER. It is marked No. 7 on the map.

By Senator FORAKER:

Q. The Yturria house is marked No. 7 on the map. Did you examine as to shots in that house?—A. Yes, sir.

Q. There is a water tank or a tower there, is there not?—A. Yes, sir.

Q. Right in that L?—A. Yes, sir.

Q. Describe what you found as to those shots and where they were.—A. There are two rooms here with a partition between; one is a pantry and a storeroom, or something of the kind, and the other is a kitchen. One of those shots went in right about there [indicating], and there is a picture hanging there, and it went through the picture.

Q. And went clear through that L?—A. Yes, sir; and struck down near the floor on the opposite side. The other one struck near the corner of this back room, and struck up about 6½ feet or 7 feet, and ranged down.

Q. And did not one go through and lodge in the framework of the well?—A. The well is here, sir [indicating]. One of these shots came through the wall first, not the wall, but the trestlework of the tank, the support to the tank. I am not positive whether it is a support to the tank or whether it is the framework of the windmill.

Q. There is a well spoken of, and also a water tank. One of those shots went through the water tank?—A. It went through the woodwork, there, of the water tank or the windmill.

Q. Now state whether or not when one of these high-power projectiles or bullets strikes wood or anything else in its flight it is likely to be deflected by it?—A. It may be deflected in any direction. It may go at right angles, or straight up.

Q. Is not that practically the rule, that it is likely to be deflected in any direction?—A. Yes, sir.

Q. Up or down, to the right or left?—A. Yes, sir; this ruler I hold in my hand may deflect a bullet. It depends on the distance from the gun, and so forth.

Q. When these bullets start in their flight they tumble, I believe. Is that the expression?—A. Yes, sir.

Q. Can you tell us what is meant by tumbling?—A. The bullet sometimes instead of striking flat will strike sideways, maybe.

Q. What is meant by tumbling? I did not catch what you said. You have two cartridges there. One is supposed to be a Krag-Jørgensen and the other a Springfield cartridge?—A. Yes, sir.

Q. I want to call your attention to that directly on another subject. But just now, illustrate what you mean by tumbling.—A. Well, when the bullet is fired out of the gun, until after it has gone 500 or 600 yards the rotation of the bullet causes the point, of course, to cover a larger circle than the back part of it does. Well, if it strikes flat when it is moving in that way its penetration is pretty apt to be straight through and take the same alignment as when it was first fired. But if the bullet strikes in this way when it is rotating [indicating] it is likely to go sideways, and it may go at right angles, or if it strikes when the bullet is in that position it will go straight up. It depends on what part of the bullet strikes where it will be deflected. And one of these shots, sir, seemed to strike in that direction. It went through this woodwork and then struck there [indicating].

Q. It struck the woodwork of the tank, you mean?—A. Either the tank or the windmill; either one or the other; I am not positive which it is.

Q. And went where?—A. Into the house here, into the wall.

Q. Now, could you tell from your inspection of what you found there where that bullet had been fired from?—A. No, sir. The bullet had been deflected, and I could not tell. I know that the bullet was coming in this direction.

Senator OVERMAN. Which direction is that from C barracks?—A. That is C barracks there; yes, sir [indicating on map].

By Senator FORAKER:

Q. Could that bullet have been fired, according to anything you saw of the effects it produced, from C barracks?—A. No, sir; because the trajectory was in that direction [indicating].

Q. But just where it came from you are unable to tell?—A. I could not say, sir. It may have come from the wall. I do not know where it came from.

Q. Now, as to the other of those bullets?—A. This bullet here, I do not think that struck anything else before it entered the house.

Q. Where did that probably come from, as near as you could determine?—A. When the bullet was fired the gun was 9 or 10 feet from the ground.

Q. Nine or 10 feet from the ground?—A. Yes, sir.

Q. What direction did it come from, as nearly as you could tell?—A. It came from there [indicating].

Senator OVERMAN. Let the stenographer get that. From where?

The WITNESS. From that direction. There is the road. I do not know exactly the position of the man standing firing the shot, or whether a man fired it, but there is the direction of the alignment of the bullet [indicating].

Senator OVERMAN. That is from the east end of C barracks?

The WITNESS. There is C barracks, there is the wall, and there is the road between the town and the barracks [indicating].

Senator OVERMAN. I just wanted the stenographer to get it.

By Senator FORAKER:

Q. We will get it all. Could that bullet have been fired from C barracks?—A. No, sir. You see this here stops it from C barracks.

Q. Yes. Now describe in that connection what outbuildings there are, or houses, in rear of the barracks along that wall.—A. The lavatory is right here, sir, and then there is a wood shed and a small oil house behind each barracks.

Q. What is that?—A. There is a lavatory, a wood shed, and a small oil house behind each barracks.

Q. They are behind C barracks as well as behind B barracks?—A. Behind C barracks, B barracks, and D barracks, and behind No. 36.

Q. Were there any other bullet holes or marks that you examined?—A. I examined a bullet in the Wreford office.

Q. What building is that in?—A. It is a small building. I think it belongs to Bestiro.

Q. Where is it located?—A. Right there, sir, on that corner [indicating].

Senator OVERMAN. The corner of what streets?

Answer. The corner of Thirteenth.

By Senator FORAKER:

Q. Directly across from the Miller Hotel?—A. Yes, sir.

Q. Where was that bullet mark?—A. That bullet struck the Wreford office about 12 or 14 feet from the Thirteenth street corner and about 6 feet from the floor, maybe more—a little more.

Q. Now, Lieutenant, I will hand you six bullets.—A. There were four other bullets in that house, but they only claimed that one of them was fired that night.

Q. Those bullets were in what house?—A. In the Wreford office.

Q. There were four other bullets in it?—A. There were five .30-caliber bullet holes in that building.

Q. When were the others fired into it?—A. That I do not know, sir. They had had at some time in the past some shooting trouble, and they came through the windows.

Q. Did they ever have any shooting trouble before in Brownsville?—A. Quite a number of them.

Q. They did?—A. Yes, sir.

Q. They have had in the times before?—A. Not right in Brownsville. I remember shots being fired there at night. It was a common occurrence for shots to be fired back on the firing line, sir.

Q. It was a common occurrence?—A. Yes, sir.

Q. Where is the firing line? I wish you would indicate it.—A. The firing line runs from here up back in here, sir [indicating].

Q. And along in that locality it is not an unusual thing to hear firing at night?—A. Up to 1906, sir, it was very common to hear firing almost every night along there.

By Senator OVERMAN:

Q. You said, "Along here." Suppose you indicate where it was.—A. Along this road up here.

Q. You see, that will not mean very much in the printed record.

By Senator SCOTT:

Q. From what point on what street?—A. Well, sir, I was not out there. I would judge from about Adams street.

By Senator FORAKER:

Q. Jefferson street is the next street parallel to that?—A. On, up; it is not built up; it is just mesquit and brush, cactus, and a few dove shacks around in there. It is where the Mexicans used to sell mescal and such things to the soldiers, or anybody who would buy, and that was where the firing was.

Q. Were there a good many firearms in the possession of the citizens of Brownsville and vicinity, so far as you observed?—A. I think most of the citizens owned firearms, sir.

Q. Do you know what firearms they had?—A. Well, they had all kinds, sir. A good many of them had the box-magazine Winchester. That is used there a good deal.

Q. The box-magazine Winchester; that is the gun of 1905?—A. 1906—no; I mean 1896.

Q. Of 1895, the box-magazine Winchester?—A. Either 1895 or 1896; the Winchester box magazine that shoots the .30-40 shoots this ammunition, sir.

Q. Why do you call that .30-40?—A. It is .30 caliber, and 40 grains of powder.

Q. The 40 refers to the number of grains of powder?—A. Yes, sir.

Q. To be accurate, it is forty-two and a fraction grains, but they call it .30-40.—A. .30-40; yes, sir.

Q. And this Winchester box-magazine rifle of 1905 uses that cartridge—if that is the year?—A. 1895.

Q. I mean 1895. It shoots that cartridge?—A. Yes, sir.

Q. Do you know that personally?—A. Yes, sir; I owned one of them, sir, and have fired the ammunition out of it.

Q. You did own one of these rifles?—A. Yes, sir.

By Senator OVERMAN:

Q. What ammunition did you shoot out of it? Is that the Krag bullet or the Springfield?—A. I used the .30-40 Winchester box-magazine ammunition. I have shot the Government ammunition out of it, sir.

By Senator FORAKER:

Q. You mean the Springfield ammunition?—A. I have never fired this ammunition, but I have put the Krag ammunition in the rifle, and it will fire it.

Q. The Krag ammunition can be fired out of it?—A. Can be fired out of it. It is hard to extract the empty shell.

Q. Can that Krag cartridge be fired out of the Springfield?—A. Yes, sir; I have been told so. I have never fired it.

Q. Can the Springfield ammunition be fired out of the Krag?—A. I have been told so; I don't know.

Q. Is not the Springfield cartridge longer than the Krag cartridge?—A. Yes, sir.

Q. But your understanding is that it is not so long but what it can be fired out of it?—A. I understand, sir, it can be fired. I have never seen it done. I know the Krag can be fired out of the Springfield.

Q. You can fire the Krag out of the Springfield, and you have been told they can fire the Springfield out of the Krag?—A. Yes, sir.

Q. Do you remember who told you about firing the Springfield out of the Krag?—A. I don't remember, sir. I came up on the rifle.

range one day at Fort Sam Houston, and different officers were talking.

Q. It has been stated in the course of this examination by a number of people that the Springfield cartridge can not be fired out of the Krag.—A. Well, I am not positive about it, sir. That is only hearsay.

Q. Please look at the bullets. You have two cartridges there, a Springfield and a Krag?—A. Yes, sir.

Q. You can refer to them if you like. I want you to look at the bullets that are now handed you, taking these envelopes in their order. They are numbered 1, 2, 3, 4, 5, and 6. These bullets are said to have been cut out of houses in Brownsville. I wish you would look at them and tell us, if you can, in the state they are in and disconnected from the shells and everything else, whether they are Krag bullets or Springfield bullets.—A. I could not tell what that was, sir.

Q. That is No. 1?—A. That is No. 1, sir.

Q. Put it back in the same envelope and tell us about No. 2, if you can tell whether that is a Krag or a Springfield.—A. No, sir; I can not.

Q. How about No. 3?—A. No, sir; I can not tell.

Q. How about No. 4?—A. No, sir; I can not tell anything about that. It is just the jacket, sir.

Q. How about No. 5?—A. No, sir; I can not tell anything about what that was.

Q. How about No. 6?—A. I can tell that that is a .30 caliber, sir; but I don't know what.

Q. It might be either Krag or Springfield, so far as you know?—A. Yes, sir.

Q. Might be a Winchester, might it not, so far as you know?—A. Yes, sir.

Q. How many guns are there that shoot a .30-caliber bullet like that?—A. Well, there is the Krag, sir, and the Winchester, our old gun, and the new gun, which both shoot the same sized bullet, 220 grains. There is no difference in the bullet.

Senator WARNER. May I ask a question right there which will save time in the cross-examination?

Senator FORAKER. Yes.

By Senator WARNER:

Q. Look at No. 6 and see if the lands are marked on the bullet.—

A. Yes, sir; the lands are marked on it.

Q. How many?—A. I would say four, sir.

Q. Well, that could not have been shot out of a Winchester, then?—

A. That I don't know, sir.

By Senator FORAKER:

Q. The Winchester has six lands, has it not?—A. I think it has five, sir.

Q. It has been testified that it has six. I do not know whether it has six or not.—A. I think it has five lands and four grooves, or four lands and five grooves. I don't know which it is.

Q. However it may be with the Winchester, the Krag has four lands?—A. Yes, sir.

Q. And for aught that appears from that bullet it might have been fired out of a Krag?—A. Yes, sir. I don't know how many lands

there are. I don't know positively about the number of lands in the Krag.

Q. I think we are agreed that the Krag rifle has four lands, and the Springfield rifle has four lands. There ought to be as many marks of the lands as there are lands in the bore?—A. Yes, sir; unless the rifle is worn. Sometimes a rifle becomes worn, and some of the lands do not mark.

Q. About what, in your experience, is the number of shots that can be fired out of one of these modern high-power Krag or Springfield rifles before wearing the lands down so they do not show on the bullet?—A. Why, I don't know about that, sir. The 45 grains of powder, with the .30 caliber, wears the lands out very quick, sir. Take a new gun, and after firing a few shots—twenty shots—the gun shows a difference in shooting. I have fired the gun very little, but after firing 20 to 40 shots you notice a difference in the shooting.

Q. Did you ever notice the effect of firing the Springfield?—A. The old Springfield kept pretty much the same. After a rifle had been shot on the range a couple of years you would notice a difference in it; it would become worn; but 45 grains of smokeless powder makes too powerful a charge to go out of a .30 caliber. The expansion of the gas does not have room, sir.

Q. Is there anything else you can tell us as the result of your investigations down there that will help us to find out the truth about this matter?—A. Well, I don't know, sir, except as to the lights—distinguishing a person by the lights—how far you can tell a person.

Q. Oh, you said you were instructed to go to the Leahy Hotel and ascertain from looking out of the windows to what extent the barracks were in view. I wish you would describe what was the result of that investigation, if you made it.—A. I can tell better from this map here.

Q. How many windows are there in the Leahy Hotel from which you can see the barracks?—A. Three windows, sir.

Q. That hotel is situated on the west side, is it, or the north side of Fourteenth street?—A. Yes, sir.

Q. And on the right-hand side of Elizabeth street as you go out from the gate?—A. Yes, sir. I will take the windows, beginning with the window nearest the alley. From the window nearest the alley you could see about 10 or 12 feet of the upper back porch of B Company's barracks.

Q. From the window nearest to the alley?—A. Yes, sir.

Q. That is nearest to the Cowen alley?—A. Yes, sir. From the window second nearest to the alley you can see from that point to about 10 feet of the end of the building on the upper porch.

By Senator WARNER:

Q. That is of B barracks?—A. Of B barracks. You can not see the lower porch. You can see the upper porch. From the third window from the alley you can see about half of it from there.

Q. That is from the middle of the barracks down to the end of the barracks as you go toward the river?—A. Yes, sir; just the upper porch.

Q. You can see the upper porch?—A. Yes, sir. Now, you can not see anything of D Company, C Company, or 36; you can not see anything of them. The houses and trees are in the way.

Q. You can not see any portion of the barracks except of B barracks?—A. No, sir; B barracks is all.

Q. And you can see that barracks just to the extent you have indicated?—A. Yes, sir.

Q. You made that investigation in daylight, did you?—A. Yes, sir. I also went up there at night.

Q. Are there trees or houses or anything else that obstruct the vision?—A. This center window, the view from the window in the center, the only thing was an orange tree that came to about the height of the upper porch floor.

Q. You are pointing to a place in the rear of the Western Union Telegraph office on that map.

Senator WARNER. In the rear of No. 2, the Cowen house.

A. Right in here, sir. The orange tree is right in here somewhere, between those houses.

By Senator FORAKER:

Q. That obstructs the view to what extent?—A. You can not see the lower portion of the barracks at all, nor the wall, but you can see the upper porch, sir, from that point, and from the center window you can see all the upper porch except about 10 or 12 feet on the end.

Q. Is there any window looking out to the rear of the Leahy Hotel from which you can see the barracks?—A. No, sir; those three windows are the only windows from which you can see the barracks.

Senator FORAKER. I believe that is all.

By Senator SCOTT:

Q. I want to ask you, after making these visits to Brownsville and making this thorough examination, have you formed any opinion as to whether the soldiers of the Twenty-fifth did that shooting or whether it was done by unknown parties outside?—A. Well, I was not there at the time, sir, and all I know is that those bullet holes are .30 caliber. I do not know who did the shooting.

Q. What is the caliber of the Springfield?—A. Thirty. I know those holes were made with a .30 caliber, but outside of that, sir, I don't know anything. I was not there and only know what I have heard the people say.

By Senator FORAKER:

Q. And the .30 caliber might have been fired out of a Winchester or a Krag as well as out of the Springfield?—A. Yes, sir.

Q. Or out of the Krag carbine?—A. Yes, sir.

By Senator OVERMAN:

Q. You only know what the people said. Was it universally claimed that the negroes did the shooting?—A. Yes, sir; I think that is a fact, that the people of Brownsville claim that.

By Senator FORAKER:

Q. And they also claimed that that was a bullet shot into that post by the soldiers?—A. They took me out to show me a bullet fired that night by the soldiers.

Q. They were just as confident of that, that it had been fired by the soldiers?—A. Yes, sir; so I dug the bullet out.

Q. Then that turned out to be simply a lead bullet?—A. Yes, sir.

By Senator OVERMAN:

Q. You use the word "they." Was that the whole of the citizens or just one man?—A. I would not say all the citizens, sir, but a great many.

Q. Told you that bullet was fired into that post by the soldiers?—A. There were ten or twelve people standing around there who seemed to be positive of it.

Q. How many said it was fired into that post?—A. It was in a barroom and they were all talking; I don't know exactly how many.

Q. You could not tell whether it was two or three or four said it?—A. Oh, no, sir.

Senator WARNER. I want to recall you to-morrow when we get this testimony printed.

TESTIMONY OF OSCAR J. MATLOCK.

OSCAR J. MATLOCK, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please give your name in full.—A. Oscar J. Matlock.

Q. Are you in the military service of the United States?—A. I am in the quartermaster's department, in the civilian service.

Q. Where are you located at this time?—A. At the quartermaster's depot at Jeffersonville, Ind.

Q. In what capacity are you employed there?—A. As clerk at the quartermaster's depot.

Q. Were you ever stationed at Brownsville?—A. Yes, sir.

Q. Were you there in August of last year?—A. Yes, sir.

Q. You were there the night of this firing?—A. Yes, sir.

Q. Where were you when the firing commenced?—A. I was in a house just immediately in the rear of the guardhouse.

Q. Were you asleep or awake?—A. I was awake, sir.

Q. I see it stated in the testimony you gave before the court-martial, or before Mr. Purdy or somebody else, that you were engaged in washing your hands.—A. That was a mistake, sir.

Q. What were you doing?—A. I said I had my watch in my hands.

Q. You had your watch in your hand when the firing commenced?—A. Yes, sir.

Q. What time was it?—A. It was five minutes to 12 by my time.

Q. How did you happen to have your watch in your hand?—A. I was just starting to leave the house.

Q. You were calling at a house in the rear of the guardhouse there?—A. Yes, sir.

Q. I do not want to go all over that, but I want to ask you simply about one particular point. Other gentlemen can examine you about it further if they want to. Were you in Brownsville in October, 1906?—A. Yes, sir.

Q. Do you remember Lieutenant Leckie, Twenty-sixth Infantry, making a visit there?—A. Yes, sir.

Q. State whether or not you were present with him in front of Crixell's saloon on Elizabeth street. I refer to the saloon that is opposite the Tillman saloon, when a bullet was cut out of an up-right.—A. Yes, sir; I was there.

Q. Did you see that done?—A. Yes, sir.

Q. How did that happen to be cut out?—A. Well, we were standing in front of that place, and they spoke of this bullet being in the post, and Lieutenant Leckie walked around and looked at the post, I believe, and ran his knife in there, and I don't know whether he suggested cutting it out or somebody suggested cutting the bullet out, and he undertook to cut it out, and I believe they got a brace and bit and bored around it and took the bullet out.

Q. They cut it out. What kind of a bullet did it turn out to be?—A. It was a leaden bullet, sir.

Q. No steel jacket on it?—A. I did not see any, sir.

Q. Not such a bullet as would be fired out of a Springfield rifle?—A. I don't believe so, sir.

Q. Had it or not been pointed out by Mr. Crixell and others present as one of the bullets that had been fired by the soldiers?—

A. It was pointed out as one of the bullets that had been fired that night, sir, the night of the shooting.

Q. State whether or not they claimed that was one of the bullets that had been fired by the soldiers.—A. Well, I believe they left that inference, sir.

Q. Were they or not surprised when it turned out to be a lead bullet?—A. Well, I don't know that there was any argument over it; I don't remember now.

Q. There was no argument for it, but it would speak for itself, would it not? It did not admit of any argument, did it?—A. No, sir. I don't remember very well what was said at the time, but I don't think there was much said about it, whether it was fired by a Springfield rifle or some other kind of a gun.

Q. That is, before it was cut out?—A. Yes, sir.

Q. There was nothing said after it was cut out about its being fired out of a Springfield rifle, was there?—A. No, sir; I don't believe so.

Q. It was generally understood that it had not been, was it not?—A. I don't remember.

Q. How long did you remain at Fort Brown after that?—A. I remained there until the 1st day of November.

Senator FORAKER. That is all I care to ask the witness now.

By Senator WARNER:

Q. You are now living where?—A. At Jeffersonville, Ind.

Q. This bullet that was cut out, what appearance did it have when it was cut out?—A. I believe, sir, it was flattened somewhat.

Q. Flattened?—A. Yes, sir; it was not round.

Q. Do you pretend yourself to know when you see a bullet, what kind—A. No, sir; I am not very well acquainted with them. I have never handled a gun but very little in my life.

Q. That has not been any part of your business?—A. No, sir; it has not been in my line at all.

Q. This bullet was flattened?—A. I believe so, sir; flattened somewhat going into the wood.

Q. You remember pretty distinctly about that, do you?—A. Yes, sir.

Q. Did you have it in your hand?—A. No, sir; I don't believe so.

Q. Did you see anybody have this bullet in their hands?—A. I saw Lieutenant Leckie handling it.

Q. Passing it around to others?—A. Well, I don't remember whether any of the others handled it or not, but they were all looking at it—that is, three or four men standing around.

Q. Just examining it?—A. Yes, sir.

Q. You say there was no steel jacket on it?—A. Not that I saw, sir.

Q. You don't know what caliber gun it came out of?—A. No, sir; I could not say what caliber it was.

Q. Or anything about it. Now, is it not a fact that instead of a flattened bullet, that you saw, this was taken out in pieces of lead, separate pieces, not in the shape of a bullet at all when it was taken out?—A. It was considerably in the shape of a bullet, sir. There might have been some pieces that he did not get out, that he tore in getting it out, but the part of it I saw was most of the bullet, I should say.

Q. And what was the kind of post this was taken out of?—A. I believe, sir, it was an upright 4 by 4; something about that size, I think, 4 by 4 or 4 by 6.

Q. The bullet that you saw was just one bullet; you did not see the pieces of lead?—A. No, sir; I don't remember seeing any pieces of lead come out. This may have been a part of a bullet, but it was a pretty good piece of lead, and while I did not examine it closely, did not have it in my hand to look at it, I took it to be the whole of a bullet.

Q. You have been in the service long enough to know the shape of a bullet?—A. Yes, sir; but it was flattened; it was not like a bullet that would be picked out of a shell.

Q. But with the exception of being flattened, you took it to be the entire bullet?—A. Yes, sir.

Q. What you saw there?—A. Yes, sir.

Q. You were visiting a family in the rear of the guardhouse?—A. Yes, sir.

Q. Who were you visiting that night?—A. There was a widow lady and her two daughters lived down there, and I was visiting down there that night, sir.

Q. Outside?—A. I was talking with one of the girls on the front porch, sir.

Q. Where was the first shooting that you heard?—A. It was up in the direction of the town, sir, about toward the ferry over there; I could not locate it exactly, but I concluded that it was up there behind the barracks, between the barracks and the town, or about there.

Q. You concluded it was behind the barracks?—A. Yes, sir—that is, from where I sat, from where I was.

Q. You were accustomed to judging rifle shots, so you could tell?—A. In hearing shots I have always noticed the peculiar sounds they make, but I was not familiar enough with rifle shots to tell exactly.

Q. But you were back there at the time sitting on the porch, talking to this young lady?—A. Yes, sir.

Q. And the first shots you heard were down in that direction, back of the barracks somewhere?—A. Yes, sir.

Q. Would you attempt to locate them at all?—A. I could not locate them as to one point or another, but just in that general direction.

Q. Did they seem to be high-power guns?—A. They were mixed shots, sir, as far as I could tell. I remember remarking on it at the time, that the shots sounded as if they were from different kinds of guns.

Q. Pretty rapid firing?—A. Yes, sir; pretty rapid firing.

Q. How many shots did you hear?—A. Well, I could not tell as to that, possibly anywhere from 50 to 150.

Q. But you heard no other shots only in that direction?—A. Only in that direction.

Q. And when you say the guardhouse you mean the building marked there No. 37?—A. Yes, sir.

Q. And you were outside the reservation?—A. No, sir; I was at 38.

Q. Thirty-eight is marked as noncommissioned officers' quarters there?—A. Yes, sir.

Q. So you were right at that point?—A. Yes, sir.

Q. No shooting was heard around there at all?—A. No, sir; none that I heard.

Q. Nor any heard by anybody else as far as you know?—A. No, sir.

Q. It was not spoken there among your party, of any shooting in that direction?—A. No, sir.

Q. Did you hear any galloping of horses up there?—A. The only sound of that kind that I heard was when that scavenger moved around there. I heard his wagon.

Q. But you did not hear any galloping horses up that way where you were?—A. No, sir.

Q. Up outside that way?—A. No, sir.

Q. The only sound of that sort that you heard was the scavenger?—A. Yes, sir; when he moved up toward the administration building.

Q. What did you hear then?—A. I heard his cart moving, and it made a great deal of noise anyway in ordinary traveling, and he seemed to be going pretty fast at this time, and it made more noise than usual.

Q. It would not make very much noise if the horse was walking, would it?—A. I could not tell whether the horse was walking or not, but on account of having a steel body on the wagon it made a good deal of noise ordinarily.

Q. And in the midst of the shooting you heard the scavenger's cart?—A. After the first part of the shooting, I think, was practically over. There was not very much firing when I noticed this cart going around.

Q. The firing was practically over at this time?—A. That is, the first part of the firing, if I remember right. The shots were pretty

fast at first, and then they subsided rather. They were more scattered after that.

Q. There were some scattering shots as though off in town farther?—A. Yes, sir; getting farther away.

Q. But it was about that time that you heard Tamayo with his cart?—A. Yes, sir. Well, I could hear that wagon ordinarily a half a mile when he was only walking.

Q. We will get the distance afterwards. I will not bother you about that; but that is the only thing you heard of any horses or any animals around there?—A. Yes, sir.

Senator WARNER. I think that is all.

By Senator FORAKER:

Q. Do you know whether those streets outside the wall there are paved or not?—A. The streets are not paved, sir.

Q. Just dirt roads?—A. Yes, sir.

By Senator WARNER:

Q. Are they paved inside?—A. No, sir; there is no pavement except the sidewalks inside.

Q. Was this a dirt road inside?—A. Yes, sir.

At 12 o'clock and 50 minutes p. m. the committee took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The recess having expired, the committee, at 2 o'clock p. m., resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Hemenway, Warner, Pettus, and Overman.

TESTIMONY OF MAJ. JOSEPH PATRICK O'NEIL, U. S. ARMY.

Maj. JOSEPH PATRICK O'NEIL, U. S. Army, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please give your name in full.—A. Joseph Patrick O'Neil.

Q. You are in the military service of the United States, are you?—A. I am, sir.

Q. What is your rank?—A. Major, Thirtieth Infantry.

Q. You are now a major of the Thirtieth U. S. Infantry?—A. Yes, sir.

Q. Where are you stationed?—A. Fort Logan H. Roots.

Q. Were you formerly connected with the Twenty-fifth U. S. Infantry?—A. From the summer of 1891 until the 1st of February, 1907, I was an officer of the Twenty-fifth Infantry.

Q. Sixteen years, about?—A. About sixteen years; yes, sir.

Q. That is a pretty long service with one regiment. When were you transferred to the Thirtieth—when you were promoted to be major?—A. Yes, sir; when I was promoted to be a major; the vacancy was in the Thirtieth Infantry, and I went to that vacancy.

Q. When was that?—A. The vacancy occurred on the 31st of

January. I did not leave the Twenty-fifth Infantry until the 8th of March.

Q. Of this year?—A. Of this year.

Q. Until the 8th of March of this year, then, you had been with the Twenty-fifth Infantry ever since 1891?—A. Ever since 1891.

Q. You were with the Twenty-fifth at Fort Niobrara?—A. Yes, sir.

Q. And then what company were you connected with at that time?—A. At Fort Niobrara?

Q. Yes.—A. Company M. I was commanding Company M, and the Third Battalion of the regiment.

Q. Where did you go when your regiment left Fort Niobrara in July of last year?—A. We went to Fort McIntosh, Laredo, Tex.

Q. You went there with Company M?—A. And the Third Battalion.

Q. What other companies constituted that Third Battalion?—A. I, K, L, and M.

Q. You were captain of M Company then?—A. I was captain of M Company.

Q. And went with it to Fort McIntosh. You were not at Fort Brown at all?—A. No, sir.

Q. Fort McIntosh is how far from Fort Brown?—A. I would simply have to make a guess, Senator.

Q. Is it 40 or 50 miles?—A. It is between 150 and 200.

Q. It is up at Laredo?—A. It is up at Laredo.

Q. Fort Ringgold is between the two posts?—A. Between the two posts.

Q. You were on the Rio Grande River at Fort McIntosh?—A. Yes, sir.

Q. Now, Major, did you have anything to do with any experiments that were made at Fort McIntosh in February or March of this year with a view to ascertaining what the powers of vision were at night in identifying people and determining who they were?—A. Yes, sir; I ordered some experiments to be made, and the one about recognizing people I personally superintended.

Q. Tell us when that experiment was made, and by whom it was made, and what was the nature of it as nearly as you can.—A. It was near the last of February. I do not remember the exact date.

Q. During the month of February. That will answer the present purposes. There is no controversy about the date. We will agree upon that. Where was this experiment made?—A. At Fort McIntosh.

Q. Did you make more than one experiment?—A. Well, we made three all together. I personally superintended only one.

Q. And that was an experiment to determine what?—A. That was an experiment to determine how far you could recognize men at night, and what was the effect of the flash of our present rifle as to light up a man's face or prominent parts, so that you could distinguish him.

Q. Did you participate in that experiment or did you simply play the part of an observer?—A. Well, I had the experiment conducted before me. I was observing the experiment.

Q. Who conducted that experiment?—A. Well, Lieutenant Wiegenstein was present with the men; Lieutenant Blyth, I think Lieutenant Harbold—I do not remember now for sure—Lieutenant Elser, and Colonel Stucke, an electrical engineer.

Q. With the exception of Colonel Stucke, an electrical engineer, the others whom you name were all officers of your battalion, were they not?—A. Yes, sir.

Q. I understood you to say Lieutenant Wiegenstein conducted the experiment?—A. Yes, sir.

Q. I wish you would tell us just what it was; the nature of it.—A. I directed Lieutenant Wiegenstein to have a number of men, more than ten. I told him I wanted Mexicans and white men and negroes mixed up. I told him the reason I wanted it was that I saw an account of where a person had testified that he could recognize these people 70 or 80 feet away.

Q. That was in the Penrose court-martial?—A. That was in the Penrose court-martial.

Q. And that is what prompted you to have this experiment made, was it?—A. That was what prompted me to have this experiment made.

Q. Now go on.—A. Well, he selected the men. I told him one or two men that I wanted put in, just mentioned casually that I thought they would be good men to put in. He went down into an arroyo—

Q. Explain what an arroyo is. That is a new word with us.—A. An arroyo is a ravine. Generally its sides are perpendicular. That is the difference that we make between an arroyo and a ravine, although arroyo is the word usually used in all Mexican descriptions.

Q. Just proceed.—A. He brought those men down into an arroyo, where we could get an approximate idea of distance—that is, the height of a man in a second story window, and the approximate distance, by standing on top of this arroyo and looking down, the approximate distance as testified.

Q. Was this at night?—A. This was at night.

Q. At about what hour?—A. The one that I attended was between 8 and 10 o'clock at night. It took us some time.

Q. What kind of a night was it?—A. Well, the moon would have set about 12 o'clock. The night was so bright that one of the officers took a newspaper from his pocket and said, "Why, I can almost read this print." I did not stay around close enough to ask him any further questions about it, but it was a particularly bright clear night.

Q. There was moonlight; was there also starlight?—A. Moonlight and bright starlight. I think there were about eleven men. They were lined up, and they wore khaki leggings, khaki trousers and blue shirts. The first experiment—the distances I marked at the time. I do not remember what they were. If you would like the distances, I still have the notes that I made at the time.

Q. Yes; you can look at your notes and give us the distances.—A. The distance in the first position—the distance of the squad from the officers—was 50 feet and 4 inches horizontally.

Q. The officers who were observing?—A. Who were observing. That is the horizontal distance. The officers who were observing were 24 feet above the squad—that is, we were on top of the arroyo

and the squad was down in the bottom of the arroyo. We were 24 feet above and 50 feet and 4 inches away from them. At the first experiment the men's backs were turned toward us. We did not know anything about what was going to be done. Lieutenant Wiegenstein did that entirely.

Q. You knew the men were coming into the arroyo before you could see them?—A. We knew the men were coming into the arroyo. We were told that they were coming in and we were watching for them.

Q. But you did not know which way they would front?—A. We did not know which way they would front or anything about it. Well, at the first firing the men had their backs to us, and they fired 20 or 30 shots. They fired by file and they fired by volley. The only way that I could distinguish that their backs were toward us was by the flashes of the rifles going away from us. Then I asked a question. I said, "Mr. Wiegenstein, haven't you got them faced the wrong way?" That I understood afterwards was a part of the experiment, but I recognized from the flash of the rifle. I expected the flash of the rifle to come toward me, and instead of that it went away from me. The next position the distance was 68 feet and 7 inches. The men's faces were toward us. We could not distinguish anything in their faces any more than we could before.

Q. In the first case could you tell anything more than that the men were there at the place where the firing was? Could you tell how they were dressed or who they were?—A. No, sir. I felt that they had on khaki trousers and leggings. I was not exactly sure of the kind of coat they had on. The only reason that I remember this is that I asked Mr. Wiegenstein, "What kind of coats have they on?" He said, "They have blue shirts." I ordered him to go back and change and get into khaki coats, but the light did not show distinctly enough to tell whether they had their khaki coats on or blue shirts. Further than that, Mr. Wiegenstein was in olive-drab uniform. He had on a standing white collar which came up about an inch above the collar of his coat. He had on his saber. I recognized him distinctly when he was under me, or some distance away while he was marching, walking up toward me or talking to me. When he got down into the squad I looked particularly to find him, and I could not distinguish him in the squad.

Q. Although he had on a white collar and a saber?—A. Although he had on a white collar and a saber.

Q. Did you look for him at the time when the guns were flashing?—A. I did not look for him particularly at that time. It was after the first firing that I thought I would look to see whether I could distinguish him. At first my attention was entirely given up to trying to distinguish particularly the individual men in the squad.

Q. Could you distinguish any of the individual men?—A. No, sir. There was in the squad a man who had worked for me and worked in my house for six months or more, brushed my shoes, and coming to the door and looking after me. I knew him as well, if not better than any man in the command. I tried particularly to see if I could distinguish him, but I could not distinguish anyone. There were three of those experiments, but in the last one we moved up until we were 24 feet above them.

Q. Before you get away from the first one, you said you had white men and Mexicans and negroes. Could you distinguish the Mexicans from the others?—A. No; I could not distinguish.

Q. Could you distinguish the white men from the others?—A. No; I could not distinguish any of them.

Q. You could not distinguish mulattoes or negroes?—A. You could not tell who they were down there. They might have been anything in color. It was absolutely impossible to distinguish them.

Q. What kind of hats or caps did your men wear?—A. They wore the campaign hat.

Q. Could you tell what kind of hat they had on?—A. I don't remember whether it was—no, sir; we could not distinguish. We did not distinguish the hats until they passed in review.

Q. Now go to the second experiment. The one I have been asking you about, the first one, was where they had their backs to you, when you had expected them to front toward you, as I understand.—A. Yes, sir.

Q. How far away were they?—A. At that time they were 68 feet 7 inches.

Q. What was the result of that—similar to the others?—A. Exactly the same. We could not distinguish anything about them at all.

Q. Now, what was the third experiment?—A. After those two experiments then I spoke to Mr. Wiegenstein about the coats; that I wanted the khaki coat worn. So he marched the men out of the arroyo and called out this particular man, that I would have known almost any place, told him to go up and get a khaki coat, and I changed the order and told him to have all of them in their khaki coats. Then they came back and went through their third experiment. At that time we were at about the same height, 24 feet above, and the horizontal distance was 18 feet 7 inches.

Q. They were that close to you?—A. They were that close.

Q. If they had been on a level.—A. If they had been on a level, they would have been 18 feet 7 inches away. They were in khaki. They had campaign hats on. That we knew. I saw them marching out of the arroyo to go up and get their khaki coats. They went through the same experiment. I think in that experiment they fired a great many more shots than they had in either one of the two, probably more than they did in the first two together. That was the particular point where I tried to recognize Lieutenant Wiegenstein and I could not. That was at a horizontal distance of 18 feet 7 inches.

Q. You measured these distances afterwards, did you?—A. Yes, sir. These distances were measured with a steel tape—an engineer's tape.

Q. Could you tell the white men from the Mexicans or Mexicans from the negroes?—A. No, sir; you could not tell the white men from Mexicans. You could not tell anything about them at all.

Q. Could you tell how they were uniformed, how they were dressed?—A. The test was hardly fair for me then, because I thought that I recognized khaki trousers and khaki leggings. The upper part I could not recognize anything about at all. I could not tell whether they had on a khaki coat or not, but I thought that I recognized khaki leggings and khaki trousers. I knew that they had the khaki trousers and khaki leggings, and I was looking particularly to find it out.

Q. What about their faces when the guns were fired? Did the flash light up their faces so you could distinguish them?—A. At the flash of the rifle you could not distinguish anything. This rifle has such a vivid flash that the eye does not take in anything except the flash. At times your eye might run to the shoulder or to the arm. It might take in that much, but when the flash of the rifle goes off, all that you see is the flash. It is nothing like the black powder, and nothing like the shotgun flash.

Q. These were Springfield rifles and smokeless powder?—A. Springfield rifles and smokeless powder.

Q. Your regular ball ammunition?—A. Regular ball ammunition.

Q. Then you could not tell whether a man in the line there had freckles on his face or not?—A. No, sir.

Q. Could you tell what kind of a gun he had in his hand?—A. No, sir.

Q. Could you tell whether it had a blue barrel or whether the barrel was covered with wood?—A. That, I believe, was absolutely impossible.

Q. I ask you these questions only because of these things having been testified about. You were there for the express purpose of making observations?—A. Yes, sir.

Q. You were looking to see what you could in the way of detecting these things?—A. Yes, sir.

Q. And that was not a dark night?—A. No, sir; that was a very bright moonlight night.

Q. What did the men do after that?—A. After they finished the shooting I directed Lieutenant Wiegenstein to march them up the road, and the spectators or the witnesses stood about 5 feet away. The men marched by us, and they would have gotten by us if I had not known—if I was just taking a cursory glance I would not then have noticed any difference in the men; but when they had passed I said, "Halt that squad, Mr. Wiegenstein. I thought I told you to put in some Mexicans and white men;" and he said, "I did, sir." Then we went and walked down the line. There were two men that I thought might have been white men. Then I walked down the line to examine it, and the only man that I picked out was an Italian who had been working in the blacksmith shop, out of the sun. He had a sort of a waxy, yellowish complexion; nothing like a mulatto. The white man was in the center of the squad, and he passed me, and I knew he was there. I had specially ordered him out, and I did not recognize him until I halted the line and went up and looked into each individual's face.

Q. And you were only 5 feet away from them as they marched by?—A. It could not have been more than 6 feet.

Q. May have been less than 6?—A. It possibly was less.

Q. It was close, they were marched right by you, and you knew that they had white men and black men and Mexicans in that company, and you were looking to detect the white men?—A. Yes, sir.

Q. And the Mexicans?—A. Yes, sir.

By Senator OVERMAN:

Q. How was the moon at that time?—A. The moon would have set at 12 o'clock that night. The moon was not full, but was very large

and very bright, a very clear night. Of course these men were marching through the chaparral. The chaparral brush down there—the mesquite brush—would probably grow 2 feet above the men's heads, but they were marching on a road that was as wide as from here to the wall. They were in the wagon track. That is, they were marched through a cutting in the clearing. It was not used very much as a road. There was an old cart used to go down there, I think, at times, but they were in the wagon track, right in the moonlight. The chaparral may have cast some shadow, but not enough—

By Senator FORAKER:

Q. Where did you stand—in the chaparral at the side of the road?—A. I stood in the chaparral at the side of the road.

Q. And they were on a level with you as they passed by?—A. They were on a level with us.

Q. And there was no chaparral on the road where they marched?—A. The chaparral was on either side of the road.

Q. And the road was as wide as over to the wall?—A. That was the main road where they were marching.

Q. Twelve or 15 feet wide?—A. I may have overestimated the distance. It could not have been over 10 feet wide.

Q. All right, 10 feet wide.—A. It would not be more than 10 feet wide.

Q. And the chaparral, you think, might have been as much as 2 feet higher than the heads of the men?—A. As much as 2 feet higher than the heads of the men.

Q. Was the moon low or high?—A. The moon was high.

Q. It would not cast much of a shadow over the heads of the men, would it?—A. It cast no shadow. In thinking over the experiment, the men were between the moon and me. Now, if the men had had their hats off I do not believe there would have been any difficulty in distinguishing them at all. I think that they were under the shadow of their hats, and they were marched by at what we call quick time. They were going 120 steps to the minute and 30 inches to the step.

Q. When they were halted and you went along the line, then you could pick out these different men?—A. Then we picked out the different men.

Q. How many observers were there in your company who had the same experience?—A. I don't remember whether Lieutenant Harbold was there or not. I do remember Lieutenant Blythe and Lieutenant Elser and Colonel Stucke.

Q. Colonel Stucke was not in the Army?—A. Not in the Army. I was anxious to have him out there because he is an electrical engineer, and I asked him some pertinent questions at the time.

Q. Then did you experiment further that night or did that close the experiment?—A. Well, as the moon was so bright and the night was so bright that it did not correspond to the conditions at Brownsville, I ordered them to have the experiment after 12 o'clock, or after the moon went down. I know they had the experiment after that, but I did not attend it.

Q. I will not examine you about that. Did you attend any further experiments?—A. No, sir. Well, I can not say I exactly attended.

There was a statement made about the effect of bullets that did not agree with what I thought, and I ordered Lieutenant Blyth and Lieutenant Harbold to go out and shoot through a building.

Q. What was the statement to which you refer?—A. There were several statements, but the one that particularly struck me was that if a bullet went through this wall and through that wall you could take a sight back through those two walls and see exactly where the bullet came from. I did not agree with that, and in general I gave Lieutenant Harbold and Lieutenant Blyth instructions to go into that question thoroughly. While they were going into this particular point I went over and looked at it myself. They had been back there an hour or two shooting before I went over.

Q. Well, in what way did they undertake to investigate that question, whether or not when bullets passed through two walls you could sight a line so as to tell where they came from?—A. Well, they made much better experiments after that, which I did not see. They simply wrote and told me about them.

Q. I only want what you saw. They are both here to testify, as I understand it, and I will examine them about that.—A. In this experiment I marked where one bullet went in. The way the experiments were conducted, a shot would be fired, then a mark would be put on the hole where this bullet went in and a mark put on the hole where it went through the other wall. Then the bullet, if possible, would be found, and it was marked and put in a sack. At the same time one of these officers had a notebook with him, and he made particular notes of this bullet.

Well, I took two holes made by the same bullet, and tried to get a line on where the bullet was fired from. I could not see through the two holes, but I took two points in a straight line, and I tried to make the third point, and it did not agree at all with where they said they were.

Q. Well, what is the difficulty about getting the alignment of bullets that go through two walls, or that go through one wall, as far as that is concerned?—A. Well, to explain it simply, the bullet has a drift to the left.

Q. It has a drift to the left. That is because of the grooves and lands?—A. It is caused by the rotation.

Q. The grooves and lands by which the bullet is given a rotary motion?—A. Yes, sir.

Q. That throws it to the left?—A. That throws it to the left, and if it meets with any resistance its course is changed from a little to the left to a great deal more to the left.

Q. That is, it may be deflected?—A. It may be deflected.

Q. By any substance that it strikes?—A. Yes, sir; it will make a curve. My idea is that in our new rifle the bullet has not only its trajectory—its ordinary vertical curve—but it also has a horizontal curve. This, I do not think, is very great. It is not enough to bother us in practice as long as we have our sights properly arranged unless it hits something.

Q. And if it hits something, then that curve manifests itself?—A. Yes, sir; and I do not believe there is absolutely any telling where the bullet will go.

Q. What do you understand by the tumbling of a bullet?—A. Well, roughly speaking—I can not explain it very clearly, but I try

to get at it out of my head in this way, that the tremendous force with which the bullet goes—the bullet is light, it is long, and the bullet goes with such tremendous force that the point has to bore through the air. The resistance of the air is so strong that the point has to bore through it. The back of the bullet has still the same impetus, and is still shoving on it. I think it is an important factor in very short ranges.

Q. That is, there is more tumbling when the range is short than when it is long?—A. While its velocity is greatest.

By Senator OVERMAN:

Q. What do you mean by tumbling—that it goes down, or that it has a rotary motion, or what?—A. Why, no, sir; the expression I have used for tumbling is simply what you might call an oscillating vertical movement of the rear of the bullet; that is, the rear of the bullet trying to force itself ahead. The front of the bullet meets the resistance of the air, and the rear end still has its force.

Q. It is a motion up and down?—A. A very slight motion up and down, imperceptible until it touches something. If it should touch something which would give the least resistance, the bullet is just as likely to turn over as not.

Q. It would be deflected downward?—A. It might be deflected downward or it might be deflected upward. It might be deflected in either direction, according to what hard substance the point should hit.

By Senator FORAKER:

Q. That is, where it strikes a substance, if it happens to be turned downward, it goes downward?—A. Yes, sir.

Q. Or upward or to the right or left, accordingly as the case may be?—A. Yes, sir.

Q. That is the invariable rule, is it not, or practically so, that there is this deflection upward, or downward, or to the right, or to the left, as the case may be?—A. Yes, sir.

By Senator OVERMAN:

Q. How would you discover that? How would that be told?—A. Why—

Q. What is the velocity of a bullet out of a high-power gun?—A. Well, our velocity now is, I think, about 2,300 feet a second.

Q. How could that sort of motion of a bullet ever be told, what sort of motion the bullet had?—A. The Ordnance Department have a very exact way of measuring.

Q. Have you ever measured it?—A. No, sir. These are simply ideas of mine, that I have picked up by reading ordnance experiments.

By Senator FORAKER:

Q. And based on your own observation, are they not?—A. On my own observation. I have noticed the most erratic movements of bullets.

Q. Most erratic?—A. The most erratic movements of bullets. That is the only way I can describe it.

By Senator OVERMAN:

Q. No man could possibly tell whether a bullet would make that motion or not?—A. No, sir; you could not possibly see it.

Q. Nobody could see it with the naked eye or in any other way? That is a conclusion drawn from the way the bullet hits the mark, isn't it, the wood or whatever it strikes?—A. What I have said is simply what I have heard dozens and dozens of people say in speaking about our new Springfield rifle.

Q. And they knew no more about it than you do?—A. Nothing at all, sir.

Q. You have the same opportunity of observation as they have?—A. Yes, sir.

Q. And you have never seen it and do not know, but just conclude that from the manner in which the bullet strikes the wood or other substance?—A. Well, I accept that theory very promptly, because I know that the point of the bullet has a tremendous resistance against it.

Q. You know the air would resist the force of anything going through it?—A. A light bullet going at the rate of 2,300 feet a second, the point of that bullet has a tremendous resistance against it.

By Senator FORAKER:

Q. Suppose these two books which I hold in my hand represent the walls of a room into which a bullet is fired. Suppose the bullet to enter here, and strike this over to the left or to the right or below or above, would it be possible, looking through the hole in that to the hole in this, to tell the point from which the gun was fired out of which that bullet came?—A. That is the point that I tried to establish. We could not do it.

Q. You could not do it. That is, when it would strike here it would deflect?—A. It would deflect.

Q. Going upward or downward or to the right or to the left?—A. Yes, sir.

Q. And striking the other side accordingly?—A. Yes, sir; but from there this might be deflected. A bullet might—I have seen it—a bullet might go right straight through—penetrate straight.

Q. If it had hit full and square?—A. Full and square, or the bullet might go within 1 or 2 inches of going straight through, or it might go within 6 feet of going straight through, if the walls were 20 or 30 feet apart.

Q. I am only giving those figures because they would represent the ordinary room, I suppose. Now, I will ask you if in these experiments it did not happen that some of the bullets that were fired through the first partition were so deflected that they went clear through the tops of the second and third partitions, if you remember?—A. I don't remember that case, sir.

Q. Or missed the second partition entirely? I will ask you whether or not when they went through the first partition and were so deflected that they struck the other to the right or left, as you have indicated, and then passing through that, if they were not again deflected so that they struck the third partition out of a line made from the first to the second partition?—A. Well, I should like to say about that experiment, Senator, that I did not go down and superintend it, for it was simply a matter of curiosity with me. I made no notes; did not make anything definite in my mind at the time. It was simply to clear up a question in my mind. When I saw those things come just the way that I thought they would I

only spent about ten or fifteen minutes, and then I directed the officers to report to me. I said: "That is what seems to me to be the fact," and I directed them to report to me anything that occurred that showed it was not the fact.

Q. You will excuse me if I ask you things about which you can not testify of your own knowledge, because I don't know anything about what your knowledge is. You have never testified before, have you?—A. No, sir; I never expected that I would be called upon to testify, and I did not prepare myself for giving any testimony. There was a report afterwards made to me that the experiment was continued.

By Senator WARNER:

Q. That report was made to you in writing?—A. It was made to me in writing. It was not an official report; it was after I left.

Senator FORAKER. I am going to call the witness himself who made the report. I thought the major had made all the experiments himself instead of having ordered them.

By Senator OVERMAN:

Q. Right there, this is very interesting testimony and I should like to know about it. Suppose that here is a board, and a man shoots through that board, could you tell by looking back whether that bullet had been deflected or not? Could you tell by the hole?—A. If you had only a small board there?

Q. Yes; just one small board.—A. It possibly would be easy to tell right there what the deflection of the bullet is, but if you looked through that board and saw the hole you would not be able to tell where that bullet went.

Q. I am just asking about one board now. Suppose there was a shot through there, could you tell by looking through the hole whether the bullet had been deflected or not in any direction—whether it had gone through to the right or left—from the hole itself?—A. In some cases you can; in more cases I would doubt it very strongly.

Q. Could you tell from the shape of the hole?—A. It is according to what part of the wood it strikes and what kind of a hole it left. If it struck a soft place in the wood, it would be a much different kind of a hole than if it struck a hard place.

By Senator FORAKER:

Q. Now, were there any experiments made of which you can give us your personal knowledge, any other than you have told us?—A. No, Senator, those are the only ones that I looked at particularly.

Senator FORAKER. I believe that is all. You were not at Fort Brown, I believe.

The WITNESS. No, sir.

By Senator FORAKER:

Q. You have no knowledge of this shooting, one way or the other?—A. No, sir.

By Senator PETTUS:

Q. Did you ever hunt any?—A. Yes, sir.

Q. When a bullet is fired and strikes a hard substance and penetrates it, does it not almost invariably turn to the near side? In

other words, if you shot this way, would not the bullet turn to the left, and if you shot this way on an incline, would it not turn to the right?—A. Well, I have never taken particular notice of that, Senator.

Q. Well, I have. If you have ever examined the surgeons' books, do they not speak of bullets turning to the near side of where they strike? In other words, if the angle is that way, if the bullet turns in and does not glance out, if it goes that way, it deflects to the left, and if it is shot this way, it deflects to the right. Have you ever noticed that thing? This paper will do just as well as anything else. If the gun is pointed this way, does it not deflect to the left, and if it is pointed this way, does it not deflect to the right? In other words, does it not deflect toward the near side of the bullet to the wood, or the flesh either?—A. Does it not deflect toward the near side of the bullet?

Q. To the wood, if it does not glance out, does not leave the wood entirely?—A. Do I understand you, for instance, that if it hits this side of a tree, that it would glance this way?

Q. If it was a flat surface and going at an angle?—A. I have never noticed; never paid any attention.

Q. Haven't you read it in the books?—A. No; I don't believe that I have. I have not been looking at that. The only thing that I have been looking at is simply this—that our own bullet, after it has gone through a target, has gone off at a curve, and I have always noticed that it has a curve to the left.

Q. A curve to the left, no matter which way it strikes it?—A. For instance, we are straight in front of our targets.

Q. And it invariably goes to the left?—A. I will say that the only bullets that I have noticed have gone to the left. The only point I made in that is that when they hit the chances are that they will not continue in a straight line. That is the only point that I have made in the experiments.

Q. If they hit it exactly, without any incline to the right or left—if they hit it exactly on a level—have you noticed that they would go to the left?—A. Well, as I said before, the only experiments that I have made with it and the only thing that I have noticed with it in target practice is that they have been going to the left.

Q. All the time?—A. No, sir; I do not say that as a general rule. I say that it merely happens to be that those I have looked at, those that I have personally inspected, have gone in that way. I can not say whether they would all go to the right or up or down.

By Senator FORAKER:

Q. According to your observation, the bullet deflects to the right or left or up or down according as the point happens to be in one or the other direction at the moment of impact?—A. Yes, sir; but every bullet I noticed—and I had not noticed a particular number, and I only noticed these few down here closely—every one of those happened to have a curve to the left.

By Senator PETTUS:

Q. You do not know whether it was exactly perpendicular to the target or not?—A. The target was perpendicular.

Q. It was perpendicular, but you did not measure it to see that it was exactly so?—A. No, sir. They are as nearly so as we can make

them to the perpendicular, and this target was also about as close as we could make it to the perpendicular.

Q. You do not remember reading in the books at school about it?—A. No, sir.

Senator FORAKER. Please stand aside until 11 o'clock in the morning, when this testimony will be printed, so that you may be cross-examined upon it.

TESTIMONY OF MAJ. CHARLES WILKINSON PENROSE, U. S. ARMY.

Maj. CHARLES WILKINSON PENROSE, U. S. Army, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please give us your name in full, Major.—A. Charles Wilkinson Penrose.

Q. Were you the commander at Fort Brown in August last?—A. I was, sir.

Q. You had a battalion there of the Twenty-fifth Infantry?—A. I had three companies there.

Q. How long have you been in the service, Major?—A. Twenty-two years and a half, sir; twenty-three years in October next.

Q. How long have you served with the Twenty-fifth Infantry?—A. Since May, 1904.

Q. Please tell us about the occurrences of the night of August 13-14, 1906, with reference to the shooting affray which occurred in Brownsville that night. Where were you when it commenced?—A. I was in my quarters, sir.

Q. What time of night was it when it commenced, as nearly as you can tell?—A. It was soon after midnight, sir.

Q. Had you retired for the night?—A. I had retired for the night.

Q. Were you awake or asleep?—A. I was awake, sir.

Q. Just proceed in your own way—though I may interrupt now and then—to tell us all you can recollect about what occurred that night—what you did, and what you saw, and what you ordered, and so forth and so on.—A. Yes, sir. I was awakened by two shots first.

Q. You say you were awakened? I understood you to say you were awake.—A. I mean to say I was aroused—my attention was called—by two shots. I was not asleep, sir; I was awake. I had spoken to my wife only a moment before. The two shots were followed almost immediately by six or seven shots, fired very rapidly. Then there were three shots that stood out prominently, more so than the others, and that was immediately followed by a number of other shots fired irregularly. Some of them might have been attempts at volleys.

Q. Now, let me interrupt you there to ask you where, as nearly as you could tell, were those first shots fired from?—A. The first shots were fired, as nearly as I could locate them, from some point between the vacant staff barracks and the guardhouse.

Q. Inside or outside the reservation?—A. They were outside of the reservation, sir.

Q. You were in your room at the time?—A. I was in my room at that time.

Q. And in your bed at that time?—A. I jumped at once out of bed and commenced to dress. My wife said: "What is that? Do you suppose it is a fire?" Almost instantly after that these several shots that I spoke of sounded.

Q. Where did they seem to be fired from?—A. They seemed to me to be in the rear of C Company or B Company barracks, in that direction of the town.

Q. Could you tell from where you were whether they were outside or inside the reservation?—A. I took them to be outside of the reservation, sir.

Q. Can you tell us what kind of firearms those shots were fired from?—A. The first two shots I heard were undoubtedly pistol shots, sir, and I think they were fired with black powder. The other shots that I heard were from high-power guns undoubtedly.

Q. By high-power guns, what kind of guns would be included in that term?—A. Well, sir, the Springfield rifle, such as we use in the Army now, is one; the Winchester, and all the sporting rifles.

Q. The Krag?—A. The Krag is one of them; yes, sir.

Q. The Savage?—A. The Savage and the Mannlicher.

Q. The Marlin?—A. Yes, sir.

Q. The Mauser?—A. Yes, sir.

Q. They are all high-power rifles?—A. Yes, sir.

Q. When you say, therefore, that they sounded to you like high-power rifles, you do not mean to have us infer that you mean the Springfield rifle?—A. No, sir; not at all, sir. I could not tell what rifles they were.

Q. Now, you were about to say that your wife spoke to you. Tell us what you did.—A. I dressed immediately, as quickly as I could, dressed very hurriedly, put on only a pair of trousers over my pajamas, slipped my feet in my shoes without stopping to lace them at all, and corded my blouse as I started downstairs. As I was going through the hall I grabbed my hat and my pistol. Just as I was about to put my hand on the doorknob to open the door there was a knock, and as I opened the door I almost ran into a man who was the sentinel on No. 3, which extends around the line of officers' quarters.

Q. Can you give us the name of that sentinel?—A. Yes, sir; his name was Herston.

Q. Charles Herston?—A. Charles Herston. I did not know who he was at the time, but found out the next morning. He said to me, "Major, they are shooting us up; they are shooting us up." I said to him, "Go over and inform the commander of the guard to sound the call to arms," and I rushed across the parade ground from my quarters, the first on the right there, to C Company.

Q. Had any call to arms been sounded up to that time?—A. No, sir. In going across the parade ground I called out, "Sound the call to arms," several times. After the call to arms had sounded I called out, "Fall in the companies."

Q. Was the call to arms sounded in response to your order?—A. Yes, sir.

Q. Where was it sounded from?—A. It was sounded in front of the guardhouse, I imagine. It was right in that direction.

Q. State whether or not it was repeated by the trumpeters.—A. It was repeated by the trumpeter at the guardhouse several times and taken up by the trumpeters of all the companies, I think.

Q. Proceed.—A. I went immediately over to C Company and the men were coming downstairs. Some few of them were in front of the barracks only partly clad. They looked to me as if they had their underclothes on. I could see the white, and they had no rifles. I said, "Men, where are your rifles?" And they replied, "We can not get the gun racks open; we can not find the noncommissioned officer in charge of quarters." I said, "If you can not find the noncommissioned officer in charge of quarters and have the gun racks opened, I want you to break them open. I want you to get down with your rifles as quickly as you can."

With that I went on to B Company, and it was just about between B and C Company barracks that I met the sentinel on No. 2. I asked him first who he was. He said he was the sentinel. I asked him where that shooting was, and he said it was directly over the wall. I asked him if he had seen anybody at all. He replied that he had not. I asked him if he had seen any flashes of guns, or anything at all, and he said he had not.

I went on then to B Company; and the men were coming out from B Company, partly clad. They had their rifles, as nearly as I could see, but there was no officer with them. There was a noncommissioned officer standing in front. I asked him who he was, and he said he was Corporal Adair. I told him to form the company as quickly as he could and to send an officer for Lieutenant Lawrason. I then went back to C Company. In the meantime I had heard Captain Lyon's voice, by his company.

I went back to C Company. The men were then coming down with their arms, and as I stood there close to them there were two or three of the men who threw their arms down in the position to load and commenced to load them. I told them to stop that—that I would shoot any man who loaded his piece before he was given an order to do so by an officer. Sergeant Harley was there at that time. I had not seen him the first time. I told him to form the company and to send some one for Captain Macklin.

I then went back to B Company. They were forming, and I could hear Sergeant Sanders calling the roll or calling the men; I did not know exactly what that was. It was about that time I heard Lieutenant Grier calling to me: "Major, where are you; where are you, Major?" I said: "Grier, come over to C Company." I went over in front of C Company and he followed me over there; joined me there, and I said, "Macklin is not here. I want you to take command of C Company. Form it as quickly as you can and wait for orders." It was just at that time that the sergeant-major reported to me.

Q. Taliaferro?—A. Sergeant-Major Taliaferro, and he asked me if he could arm himself; said that he had no arms. I told him yes, to go and arm himself. I then went back to B Company. On the way back—there is a brick walk in front of the barracks that is not shown there, but on this brick walk, I saw some shadows over there—some forms—and I went over and asked who it was. The spokesman said he was the corporal of the guard and that he had come up to answer the call of No. 2. I asked him who he was, and he told me he was Corporal Burdette. I told him all right; to remain right where he was.

Q. Did he have any men with him?—A. Yes, sir; he had two or three men; I don't remember how many. He had two or three men

with him. I went on to B Company, and Lieutenant Lawrason was there at that time, and he asked me what was the matter, and I told him that the post was being shot up; that I wanted his company formed as soon as possible, and that as soon as it was ready I wanted him to take it out and put it along the brick wall, his left resting on the gate and his right extending along as far as possible in line of skirmishers.

I went over to Captain Lyon, and I asked him if his company was formed. He came toward me and replied that it was. I told him to take his company and form it in line of skirmishers along the brick wall, his right resting on the gate, and told him that B Company was on the other side of the gate.

I then went back to Lieutenant Grier and I told him that I wanted him to form his company along the brick wall, with his left resting on B Company's right, and if it extended beyond the vacant barracks to refuse his right toward the guardhouse.

Captain Lyon took his company right out, and I followed him out in the road. As he was posting his company there Sergeant-Major Taliaferro reported to me at that time, armed with a rifle. I do not know what else he had. I saw the rifle. There was a light, I might say, on the gate, and for a short distance back you could see people, probably 20 feet, readily. I told him I wanted him to go over and see if he could find Captain Macklin. I had not heard from him at that time at all. I then went to the extreme right of the line, to see whether those two young officers had posted the men the way I wanted them to be, and came back. It was either in rear of that vacant set of barracks, 36, or C Company barracks that I met the sergeant of the guard, Sergeant Reed. I did not know him until I asked him his name, and I asked him what he had seen and what he had heard. He told me that he had seen nothing at all, that he heard this firing, had formed his guard, and had it in line of skirmishers to the east and north of the guardhouse. I told him that disposition was all right, and to remain there, to go back with his guard and remain there. I questioned him about the shots, and he said that they came down from in this portion of the town, pointing down toward the end of C Company. I then went on down the line, inspecting it.

Q. That is the end of C Company barracks, you mean?—A. Yes, sir; the west end, he seemed to think. He could not tell, exactly, but located it in that direction. He pointed out in that direction.

Q. We have had a good deal of confusion as to which should be called east and west. Up the road, up that map there, we call east, and down the river we call west.—A. That is right, sir.

Q. And out into the town, we have been calling that north, I believe.—A. I think that the barracks face nearly north and south, sir.

Q. There is an arrow which indicates.—A. I see it, sir. I see the arrow, but that hardly seems to be right, sir. If you will permit me, I will call this the western end and toward the noncommissioned officers' quarters the eastern end. We generally referred to it that way in the garrison.

Coming on down from there I met the sentinel on No. 2 again and questioned him again about the firing. He told he was between B and C Companies when he heard the first two shots. Then he said there was a fusillade, and he thought they were shooting at him. He

said he looked over in that direction and could not see anything and was a little frightened, and he came out in front of the quarters between B and C and gave the alarm.

Q. In what way?—A. He gave the alarm by firing his piece.

Q. Did he tell you how many times he fired it?—A. No, sir; he did not tell me how many times he fired it, but those three shots that stood out so clearly I thought were his shots.

Q. They were just before the call to arms was sounded, were they?—A. Yes, sir; they were before that.

Q. You learned afterwards, if you did not learn that night when you talked with him, that he said he had fired his piece three times?—A. Yes, sir; that was afterwards. I do not recall that he told me he had fired his piece three times. He told me that he had given the alarm, which, of course, with us means firing.

Q. You understood from what he said to you that he had fired his piece?—A. Yes, sir. Shall I continue?

Q. Yes.—A. I went on down to D Company. Captain Lyon was standing near the gate, and to the north of D Company is a latrine which is not marked on the map.

Q. What is that?—A. A closet. It is just about in the center of the barracks, I think, and I noticed the scavenger, Tamayo, there. I went to him, followed by Captain Lyon, and asked Tamayo if he had seen anything of this shooting at all. He told me that he was in rear of B Company's barracks, and first heard a couple of shots. He then said there were a number of them, and he said that he heard the bullets go toward the river. I asked him if he was sure that he heard them go toward the river, and he said he was. I asked him where he located this firing, and he told me he thought it was in the Cowen alley, as it is known. I questioned him pretty closely about that, and Captain Lyon, as I said, was present, and he suggested to me, he said: "Major, I think we had better take this man's affidavit early in the morning." I said: "Very well, you take it." He was summary court officer, and the one to take it.

It was about that time or immediately before, I have forgotten which, that Sergeant-Major Taliaferro reported to me that he could not find Captain Macklin, that he had been in his house and could not find him. I felt greatly alarmed about Captain Macklin. He was officer of the day, and I was afraid that he might have heard this shooting and jumped over the wall, and possibly have come to some harm.

I ordered Captain Lyon then to take his company out and go through the lower part of the town—the part that would be frequented by the men. In my inspection along the wall the men were all reported present except two from B Company.

Q. Two what?—A. Two privates from B Company were reported absent, or two men; I don't remember whether they were privates or not. I told Captain Lyon to search through that part of the town and see if he could find anything of those men or of Captain Macklin. He immediately went out with his company and was gone half or three-quarters of an hour. I presume.

While he was gone I questioned several of the men, and once, when I was in front of the gate, there was some one of the men who said

to me: "Major, for God's sake get away from that gate; they will kill you." There was a light there.

Before I sent Captain Lyon out, or immediately afterwards, I had two squads from B Company thrown over to the left of the gate and extended toward the river. Captain Lyon was gone from half to three-quarters of an hour, and when he returned—

Q. Before you pass from that, let me ask you, for fear we do not get back to it, what seemed to be the idea of the men as to what was going on?—A. All of the men seemed to think that the post was being shot up. The firing had all ceased, however, when we got out along the brick wall.

Q. How long did it continue—while the companies were being formed in front of the barracks?—A. Up to about the time that the companies were formed, I think.

Q. You heard Sergeant Sanders calling the roll. Was the firing still going on then?—A. Yes, sir.

Q. At that time?—A. Yes, sir. When he was calling the roll it was still going on. I think it ceased just about the time the companies went out to take their positions along the brick wall.

Q. Now, you may come back to the point where you were.—A. Captain Lyon came back.

Q. The men remarked: "Keep away from the gate, or you will get hit?"—A. Yes, sir. During Captain Lyon's absence I walked up to the right of the line again and back. I questioned several of the men and the officers, asked them if they could see anything at all, if they had been able to see anybody, if they knew anything about it. They replied that they had not seen a thing.

Q. What did you find the men doing as you walked back and forth along the line?—A. They were stationed along the wall, according to my orders, in line of skirmishers, and they were peering over the wall, as nearly as I could see. It was so dark I could not see anybody until I got almost on top of them.

Q. And they could not see you until you got onto them?—A. No, sir.

Q. It was a very dark night, was it not?—A. A very dark night, although it was starlight.

Q. Did you come across anybody cleaning a gun out there while you were making these trips up and down the line?—A. No, sir.

Q. Did you see anybody doing anything of that sort?—A. No, sir.

Q. Go on.—A. When Captain Lyon came back he had Mayor Combe and his brother, Dr. Joe Combe. He came into the post, and they came right up to me. Captain Lyon was with him; and Mayor Combe said: "Major, this is a terrible affair;" and I said: "What is it?" He said: "A man has been killed," and I understood him to say that night that the chief of police was wounded and his horse killed. It happened to be the lieutenant of police. He also said: "Several houses have been shot into." I said: "Major, I can not believe it."

Q. Did he say your men had done it?—A. He said that my men had done it. He said: "Your men have done this thing. They have been seen by several parties." "Well," I said, "Major, I can not believe it. The report brought to me when they were formed was that there were but two men absent, and I can not believe it." "Well,"

he said, "it is so; they have been seen by several parties. There was a party of five in one bunch and a party of three in another." "Well," I said, "I can not believe it, sir." We had a little more conversation on that line, and he said he wished to speak to me privately.

Q. Before you get away from that, did he tell you where the bunch of five was seen and where the other bunch was seen?—A. No, sir; he did not. He simply told me that they had been seen. He then asked to speak to me privately, and we stepped away from the other officers that were there, and he said to me: "Major, you must realize that your men can not come into town after this. I can not be responsible for them if they come into town." I said: "I fully realize that, Major." I remembered that Lieutenant Lawrason was taking his meals in town, at the Leahy Hotel, and I asked him about Mr. Lawrason going out to take his meals. He thought a moment, and he said: "Well, I don't think it will be advisable for any officer to go in town, as the uniform alone might create feeling." So I said: "Very well, I will not allow any of my troops to go into town. Neither will I allow any of your civilians to enter the post. You can visit me, of course, at any time. I will give orders at the gate to have you admitted, and if you desire any particular person to see me, if you will give him a note, I will give orders at the gate that they shall be passed in."

With that he bade me good night and left. Now, before he went, and when he first told me about this thing, or about the time—I think that I had stepped off to one side—when he claimed that the men had done the shooting, I returned to the officers, and I said: "Gentlemen, I want you to verify your companies." The rolls were called. I suppose they were called—I did not hear them called—as I was talking to Doctor Combe. After he left, the reports were made to me that all were present but two from B Company.

Q. Up until the time he spoke to you, had anybody ever suggested or had the thought come into your mind that any of your men had anything to do with the shooting?—A. Not the least in the world, sir. I did not believe it when he told me.

Q. You did not believe it when he told you?—A. I did not, sir.

Q. When you had that talk with him, as a result of that you directed your company commanders to verify their companies?—A. Yes, sir; I directed them to verify their companies.

Q. Did you give any directions about the guns or ammunition?—A. Not at that time, sir. I did later. I kept the men in the positions they were in until about half past 3, I think; I am only judging of the time. I did not have a watch on that night. At about that hour I dismissed B and D Companies.

Q. B and D Companies?—A. Yes, sir; B and D Companies. I told the captains they could let the men go to their barracks and go to bed. I gave them orders, however, that I wanted them to see that the guns were locked in the racks and that the ammunition was verified, and I wanted that done as soon as it was light enough to see in the morning.

Q. Did you direct that the guns be verified also?—A. Yes, sir; the guns and ammunition.

Q. The guns and ammunition both?—A. Yes, sir; the guns and

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Q. The guns and ammunition both?—A. Yes, sir; the guns and

ammunition both. I directed that as soon as it was light enough to see they should do that.

Q. Your direction about doing something when it was light enough to see had something to do with the inspection of the guns?—A. Entirely so. That I did for my own satisfaction only. I am under the impression that I said to some one of the officers, I do not know who it was, that I could not believe a word of it; that I did not believe a word of it, but for my own satisfaction I intended to have these guns inspected and the ammunition verified.

If I may go back just a moment or two, while Mayor Combe was in there Captain Macklin reported to me, and I told him to go and take charge of his company. On dismissing the two companies I had Captain Macklin's company extended along that whole line—that is, from near the Rio Grande River clear up to and around the guardhouse, and I left him in charge of the guard that night, with orders for him to remain awake and to notify me instantly if anything at all occurred. I then went home. I went first to Captain Lyon's quarters, where the ladies had congregated. I had previously sent a noncommissioned officer and two men over to that house.

Q. Do you remember who that noncommissioned officer was?—A. Yes, sir; it was Corpl. Ray Burdett. I sent him over there to see that nothing happened to the ladies. We went over there and found the ladies all at Captain Lyon's, and after talking a few moments or more I took my wife home, and I sat beside her the rest of the night. She was nervous and could not go to sleep, and I did not go to bed at all; I sat beside her.

Q. You did not retire?—A. No, sir; I sat beside her. I did not even take off my shoes. Before daylight I went over and looked along the line of Captain Macklin, and I asked him if he had seen anything at all, and he reported that everything had been quiet, and the only thing he had seen was a man who had crept down Elizabeth street opposite the Leahy Hotel and had turned out the street lamp that was there. That was the only thing he had seen.

Q. That was probably the street lamplighter?—A. Well, I do not know who it was, sir.

Q. Yes. He did not know and did not tell you?—A. No, sir. He said that he saw a man sneak down the street, as he expressed it, and turn this light out. Now, before it was really light I went to the barracks again, and as soon as it got light enough for me to see I inspected the rear of the barracks. I commenced with Company C barracks and went right along to Company D. I inspected the lower galleries first and then I went upstairs, and I inspected them very carefully—I inspected the railings, even—expecting to find them full of holes, but there were no bullet scars whatever. I also looked along on the floor, as I went, to see any indications of splinters, or anything of that kind, and I could not find anything whatever. I came down. I went back to Captain Macklin, and I said: "Captain, I wish you would go out alongside of the wall and see if you can find any ammunition there; any fired cartridges." He went along the wall, and I watched him until he got up beyond this latrine of B Company, and directly he came back into the post with his arms this way [indicating].

Q. Crossed?—A. Crossed just like this. I supposed that he had something, and I walked out toward the middle of the parade

ground, and he joined me, and he opened his hands in this manner [indicating]. He had five clips in this hand, in his right hand, and he had six or seven or eight shells in this hand—fired cartridges. I said, "Well, Macklin, I am afraid our men have done this shooting;" I said, "That looks bad," and I said, "What did you see out there; anything more?" He said, "No; there were no more, but there were a number of men up the Cowen alley, evidently picking up something. I could see them reaching down now and then."

Q. Before we get away from that place, tell us at what time it was that Captain Macklin went out under your order and gathered up these clips and shells?—A. I should think it was about 6 o'clock, sir.

Q. With respect to daylight, I mean.—A. It was daylight. It was so that you could see plainly.

Q. He has testified that it was just about the break of day.—A. That was just about the time. I think he could see. I had been along the barracks, and I could see.

Q. He said that he picked up all he could see?—A. Yes; he said that he picked up all in sight. He said he found them right there outside the Cowen alley.

Q. Go on with your story in your own way.—A. Captain Lyon and Lieutenant Lawrason were inspecting their companies then, and I stood out on the parade ground watching B Company—and I was not paying much attention to Captain Lyon; I was simply watching Lawrason—and Lawrason dropped several men to the rear and had them formed on the right of the company. When he got through there were seven in all, and he said "Major, I wish you would inspect these guns." I inspected the guns, and they were not bright, but I do not think they had been fired; they did not have that peculiar grayish tint; but to make sure I called over to Captain Lyon, who had just finished his company at that time, and I said "Lyon, I wish you would inspect these rifles." He inspected them, and I asked him "What do you think?" He said "I do not think they have been fired." I called to a noncommissioned officer who was there and asked for a cleaning rod and some rags, and they were brought, and Captain Lyon and myself ran those rags through the barrels of the guns, inspecting them very carefully, smelling of them too—you can detect it quicker by smelling than you can by anything else when they have been recently fired—and there was no sign of these rifles having been fired. Captain Lyon reported that his rifles were all bright and clean, and that none of them had been fired, and Captain Macklin, after he had examined his rifles, while the men were still along the fence, and also those of the guard, reported to me that none of them showed any signs of firing whatever. I had given orders, I think it was during the night before I went home, that B Company should relieve C Company at reveille, immediately after this inspection, and B Company had gone out to relieve C Company before I had finished inspecting these seven men of B Company. I directed them to join their company. After that, later, the officers reported to me that they had verified their ammunition and had found it intact.

Q. That is, there were no missing cartridges?—A. They said there was nothing missing at all, sir; they accounted for every cartridge.

Q. Did they report to you that they had also verified the number

of guns?—A. Oh, yes, sir; that was a part of the verification. I might add that some of the guns in each company had been packed at Fort Niobrara for transit to Fort Brown and had not been opened until that morning.

Q. Yes. Can you tell us of what companies the arm chests had not been opened from the time they left Niobrara until that morning?—A. I do not think any of them had.

Q. You do not think any of them had?—A. No, sir.

Q. You had not done any firing at all at Fort Brown?—A. No, sir; we had completed our target practice before we left Fort Niobrara, and we had had no firing whatever at Fort Brown, and no ammunition had been issued. I was in command of the regiment when it left Niobrara, and I gave orders then to have each man carry 20 rounds of ammunition.

Q. On the trip down?—A. Yes, sir; on the trip down; and that they had.

Q. Do you know what was done in C Company about their ammunition after they arrived at Fort Brown—whether the ball ammunition was taken up and the guard ammunition was issued instead?—A. No, sir. I think Captain Macklin misunderstood my orders. I think he went down there with guard ammunition. I am not sure of that.

Q. No; he has testified that his men carried 20 rounds down there, but after he arrived there he took that up and issued guard ammunition instead. His property book is in evidence, showing that.—A. Yes, sir. That is probably true. I do not know. I had not issued any orders, however, for guard ammunition to be issued.

Q. Proceed with your story. The reports to you from all the companies were that the guns were all clean?—A. All clean, and had not been fired.

Q. From what you observed as to how the men were situated that night, have you any idea that any guns were cleaned, or could have been cleaned, while they were on guard out behind the wall, with you passing up and down the line in the way you have described?—A. It would have been possible, I suppose, for a man to have cleaned a gun; but with the officers constantly in rear of them it seems to me hardly probable.

Q. You do not think it probable that they did?—A. No, sir; I do not think that they did.

Q. As to the cleaning of these guns, has your experience in the cleaning of these guns been such as to enable you to tell us whether or not, without the use of rags and a cleaning rod, using merely the thong brush, they could have cleaned these rifles after they had been fired a half a dozen or more times so that they would pass such an inspection as you gave them the following morning?—A. No, sir; I do not think they could have, with the thong brush.

Q. You do not think that could have been done?—A. That brush simply loosens the matter up in the bore of the rifle. It does not clean it well.

Q. It does not clean it? Does it help to put a rag on it and pull that through?—A. Yes, sir; that would help it.

Q. You think that would help it some?—A. Yes, sir.

Q. But the best way to clean a rifle, is it not, is to use a rag saturated with cleaning material, and a rod?—A. Yes, sir; it is the only way to thoroughly clean it.

Q. And to clean a rifle so that all traces of firing would be removed it would be necessary not only to clean the bore, but the chamber?—A. Yes, sir; the chamber and the breechblock.

Q. Do you think that a man could clean one of these rifles that had been fired a half a dozen times, so that it would pass inspection, in the dark, without any light?—A. I doubt that very much, sir. I do not know. I have never tried it.

Q. Is it not true that good light and fair facilities are necessary to the proper cleaning of a gun?—A. Absolutely, sir.

Q. It is not an easy matter to clean it, according to your experience?—A. Not at all, sir. This smokeless powder, such as we use, stains a gun badly.

Q. It stains the gun badly?—A. Yes, sir; and requires frequently sal soda to take the stains out of the barrel.

Q. The book of instructions issued by the War Department calls attention to that fact, does it not?—A. Yes, sir.

Q. I think I interrupted you in your narrative. What did you do later in the day? Were you visited by a citizens' committee?—A. Yes, sir.

Q. Who brought some shells?—A. Well, I do not know about any shells, but I was visited. Mayor Combe came into the post about 9 o'clock, I think, in the morning, and he came to my office and informed me that they had held a mass meeting, and that a committee of citizens would visit me between 11 and 12 o'clock, I think it was. He also said that there was no question in his mind that the shooting was done by the soldiers. At the time he was there I think there was a Mr. Creager, who was the United States commissioner—

Q. That name is spelled C-r-e-a-g-e-r?—A. Yes, sir; "e-r" or "o-r." I do not remember which.

Q. It is spelled in the record C-r-e-a-g-e-r.—A. That is probably correct. I had sent for him. I had met him a day or two before, and I had sent for him to see if he could not be of some assistance, by way of suggestions or otherwise, in helping me make the investigation that I determined to make at once, and it is possible that he was present when Doctor Combe came in. Of that I am not sure. Later in the day a committee of citizens, some twelve or fifteen—I do not remember how many—did visit me at my office in the post. They were headed by Mayor Combe and Capt. William Kelly, a soldier of the rebellion, and a banker of Brownsville, who was the chairman of the committee. I had sent for Captain Lyon and told him that I wanted him to be present at this interview, and Lieutenant Grier, being acting adjutant, would necessarily be there. Mayor Combe introduced all of them, we were all introduced, and Captain Kelly then arose and told me that a man had been killed in town that night; that the lieutenant of police had had his arm so badly shattered by a bullet that it would have to be amputated; that his horse had been shot under him; that several houses in the town had been riddled with bullets, and he said, "We have conclusive evidence that your men did the shooting." I replied to him that I was very, very sorry, of course,

that anything of the kind should happen; that I had spent a good many years in the service, and nothing of the kind had ever come up before.

He demanded that I turn the perpetrators over to the civil authorities for trial. I told him that I had made, of course, only a hasty investigation that morning, but so far I had been unable to detect anyone at all, but that we would continue our efforts, and if they were found, then they would be turned over to the civil authorities; and I assured him that none of us would cease our endeavors to try to find out who these men might be. I told him, further, that if I had not the shells, if I had not seen the shells and clips, in the absence of any bullet marks in the buildings I would still be of the opinion that none of my men had anything to do with the shooting; but with that evidence before me I was afraid my men were implicated in the matter. There were a great many questions asked by the various members of the committee, principally as to their safety, as to what precautions I had taken or would take to prevent a recurrence of the thing, and I told them that I had one entire company on guard, and that there would always be two officers with it, and that I could promise them that nothing of the kind would occur again; that I should give it my personal attention always, at all times. I told them that I was perfectly confident that I could keep these men in control; that I could handle them; that there was no doubt in my mind at all about that.

Q. Right there, let me interrupt you to ask what was the discipline of that battalion and what was the character of the soldiers of that battalion as soldiers and also as men?—A. Well, gentlemen, with all due modesty, I considered that battalion the best drilled and the best disciplined battalion I have ever seen in the Army.

Q. Had they ever been guilty of any bad conduct anywhere?—A. No, sir. I think once there was a shooting that took place at a ranch near Fort Niobrara, and it was thought that some of the men of the battalion had something to do with it, but I do not think, upon investigation, any of them were found to have anything to do with it.

Q. That was where a drinking place or a resort was fired into in the nighttime by somebody and nobody ever could discover by whom?—A. Yes, sir.

Q. Only colored people were in the house at the time, however, were they not?—A. I am not sure about that, but I think that there was some white people from town at that time. It was one of those resorts well known in the West.

Q. I do not want to go into that, but that is where Raynor was injured, was it not?—A. Yes, sir.

Q. He was a colored soldier himself?—A. Yes, sir; I think that was the time.

Q. Now, how did these men of your battalion seem to you, reliable or not?—A. I considered them reliable; yes, sir—yes, sir; excellently behaved. Even after pay days I never had any trouble with them. Of course there were sometimes absentees from the different roll calls, particularly retreat, and check call, which is held at 11 o'clock at night, and reveille roll call.

Q. State, as to the oldest of your men, those oldest in service, and particularly the noncommissioned officers, what kind of men and

soldiers were they.—A. They were excellent. They were excellent men; yes, sir. Take them all the way through they were excellent. I could not pronounce them anything else.

Q. They had your entire confidence as men for truth and veracity?—A. They did; yes, sir.

Q. And as men who were faithful in the discharge of their duties and as soldiers—A. They had been faithful always; yes, sir.

Q. You can resume your narrative now.—A. I do not recollect anything else said at that meeting, except as to their safety; and I told the gentlemen of the disposition I had made of my troops, and I told them if they cared to go I would take them along the line and show them just how they were posted; that I would be very glad indeed to do that; but they said they did not care to have me do that. Then Mayor Combe assured me that he could keep the unruly element of Brownsville in hand; that he felt pretty sure he could do that; and the committee then left. They shook hands with me and thanked me, and I considered we parted with the best relations.

Q. That was on the 14th of August?—A. Yes, sir; between 11 and 12 o'clock, I think it was.

Q. The day after the firing?—A. Yes, sir.

Q. Now, you had seen these clips and shells that Captain Macklin had brought in?—A. Yes, sir.

Q. And you had heard the charge as made by Mayor Combe and his brother the night of the firing?—A. Yes, sir.

Q. And this committee waited upon you with this report and insisting that the men were guilty. Thereupon you sent a telegram to the War Department, did you not, to The Military Secretary?—A. To the military secretary of the department, sir—the Department of Texas.

Q. To the military secretary of the Department of Texas?—A. Yes, sir.

Q. That is dated August 15. I think there was one before that.—A. There was one before that. I sent a telegram the morning of the 14th. I am sure it was the morning of the 14th that I sent a telegram informing them that—

Q. You first wired the department to the effect that your men were not, in your opinion, guilty of having anything to do with the firing, did you not; and then, after this committee waited on you, you sent a telegram calling attention to this exhibition of shells and clips, and expressing the conclusion that they had participated in it?—A. Yes, sir.

Senator FORAKER. Those are all in evidence, Senator Warner, and I will not take the trouble to put them in here again in this connection.

By Senator OVERMAN:

Q. When was the second telegram?—A. The second telegram?

Q. Yes.—A. I do not know that I can tell you. I have copies of all those telegrams, and can bring them to the committee.

By Senator FORAKER:

Q. We have them in Senate Document 155.—A. Yes, sir. All of my telegrams, I think, are in there, sir.

Senator FORAKER. The first telegram sent by Major Penrose is

found at page 66 of Senate Document 155, and is Exhibit A of Major Blocksom's report. I will ask to have that incorporated in the witness's testimony at this point. It reads as follows:

A.

FORT BROWN, TEX., August 14, 1906.

The MILITARY SECRETARY.

Department of Texas, San Antonio, Tex.:

Regret to report serious shooting in Brownsville last evening, in which one civilian was killed and chief of police so seriously wounded that right arm will have to be amputated. Brownsville officials claim shooting was done by enlisted men of this command, and are borne out in their opinion by empty shells and clips picked up in the streets. Shooting occurred about midnight, and within five minutes afterwards entire command paraded and all men found present or accounted for and rifles in racks locked. All men now confined to garrison, and no one permitted to enter post but mayor of city, or on his personal request to me. Feeling very high in city, but believe mayor has it under control. Am doing everything in my power to find guilty parties if they be in this command. Practice marches suspended. Full particulars by mail.

PENROSE, Commanding.

The WITNESS. Allow me to interrupt you there, Senator. I think I made a mistake in the time there. It was probably seven or eight minutes, or nine minutes, maybe, before the command was out alongside the fence. I think I gave that time as too short there.

By Senator FORAKER:

Q. With that amendment, that is correct?—A. Yes, sir; that is correct, sir, as I recall it.

Q. You do not express any opinion here as to whether the men are guilty or not. You simply report the fact that it is claimed that the men are guilty?—A. That is all, sir.

Q. The next telegram appears to have been sent August 15, 1906, and in that you recited the occurrences just as you have narrated them here?—A. Yes, sir.

The CHAIRMAN. Is that a telegram or a report?

Senator FORAKER. It may have been a report.

The WITNESS. I wrote that report on the evening of the 15th or on the night of the 15th.

Senator WARNER. It is dated the 15th?

The WITNESS. Yes, sir; it was the 15th.

By Senator FORAKER:

Q. In the course of this report you used the following language, and I quote from page 68 of Senate Document 155:

Were it not for the damaging evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime, but with this fact so painfully before me I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand. I have the affidavits from three noncommissioned officers who were in charge of quarters on the day and night, and they swear positively the rifles were verified and the racks locked after drill (practice march of Companies B and D, drill of Company C), and the old guard returned to the quarters; that they never left the quarters, and that the keys to the locks of the racks were never out of their possession, and that the racks were not opened until call to arms sounded, and were then opened by them.

I will ask you whether or not there was at any time any evidence that to your mind indicated that your men had done this shooting

soldiers were they.—A. They were excellent. They were excellent men; yes, sir. Take them all the way through they were excellent. I could not pronounce them anything else.

Q. They had your entire confidence as men for truth and veracity?—A. They did; yes, sir.

Q. And as men who were faithful in the discharge of their duties and as soldiers—A. They had been faithful always; yes, sir.

Q. You can resume your narrative now.—A. I do not recollect anything else said at that meeting, except as to their safety; and I told the gentlemen of the disposition I had made of my troops, and I told them if they cared to go I would take them along the line and show them just how they were posted; that I would be very glad indeed to do that; but they said they did not care to have me do that. Then Mayor Combe assured me that he could keep the unruly element of Brownsville in hand; that he felt pretty sure he could do that; and the committee then left. They shook hands with me and thanked me, and I considered we parted with the best relations.

Q. That was on the 14th of August?—A. Yes, sir; between 11 and 12 o'clock, I think it was.

Q. The day after the firing?—A. Yes, sir.

Q. Now, you had seen these clips and shells that Captain Macklin had brought in?—A. Yes, sir.

Q. And you had heard the charge as made by Mayor Combe and his brother the night of the firing?—A. Yes, sir.

Q. And this committee waited upon you with this report and insisting that the men were guilty. Thereupon you sent a telegram to the War Department, did you not, to The Military Secretary?—A. To the military secretary of the department, sir—the Department of Texas.

Q. To the military secretary of the Department of Texas?—A. Yes, sir.

Q. That is dated August 15. I think there was one before that.—A. There was one before that. I sent a telegram the morning of the 14th. I am sure it was the morning of the 14th that I sent a telegram informing them that—

Q. You first wired the department to the effect that your men were not, in your opinion, guilty of having anything to do with the firing, did you not; and then, after this committee waited on you, you sent a telegram calling attention to this exhibition of shells and clips, and expressing the conclusion that they had participated in it?—A. Yes, sir.

Senator FORAKER. Those are all in evidence, Senator Warner, and I will not take the trouble to put them in here again in this connection.

By Senator OVERMAN:

Q. When was the second telegram?—A. The second telegram?

Q. Yes.—A. I do not know that I can tell you. I have copies of all those telegrams, and can bring them to the committee.

By Senator FORAKER:

Q. We have them in Senate Document 155.—A. Yes, sir. All of my telegrams, I think, are in there, sir.

Senator FORAKER. The first telegram sent by Major Penrose is

Q. Had you heard of it until that time?—A. No, sir; I never heard a word of it.

Q. No complaint had been made to you during the day?—A. No, sir; not the slightest, and that had occurred the evening before, the evening of the 12th. Mr. Evans told me it was about 9 o'clock Sunday evening.

Q. And this was Monday evening?—A. Yes, sir.

Q. And he told you there was a good deal of bad feeling on the part of the people of the town?—A. No, sir; not at all.

Q. What did he tell you?—A. He simply came in with Doctor Combe, who introduced him to me. I had never met him before, and never seen him, and he told me that the night before he and his wife had been, I think, at the railroad depot, and had started home, and they met a gentleman who was riding Mrs. Evans's pony, and this gentleman insisted that Mrs. Evans should get on her own pony and ride home. So Mr. Evans put her on the pony, mounted her on the pony, and she started off, leaving the two men to walk on, and she said that when she got to her home she got off of her pony, opened the back gate, and was going up toward the back steps—I think she must have been near the back steps—when some one rose up from behind a barrel and seized her by the back hair and threw her to the ground—he said "violently to the ground"—and she screamed, and the man ran away.

I asked him what description Mrs. Evans could give of the man. He said that the only description that she could give—it was only a fleeting glance she had of him—was that he was a large, tall, black negro, wearing khaki trousers, a blue shirt, and a slouch hat. I said, "Well, Mr. Evans, I have a great many men in my command that would answer that description, who are large and tall and black." I said, "Can not your wife give me any better description than that?" He said no, that he was afraid she could not; that she was very much frightened, and that was about all that she saw. Well, then, I asked him why he had not reported this matter before. I said, "Here it is nearly twenty hours, and you have not reported this to me," and he said, "Well, Major, I know it, but my wife was so excited and wrought up that I didn't feel that I could leave her." I said, "Mr. Evans, I regret this matter deeply. Nothing, to my mind, could be worse, and I will do everything in my power to find this man; but you can see that I am almost helpless with this description." I asked him if a day or two later, when his wife was more calm, she would not see if she could not recollect some further distinguishing feature, and I said, "If Mrs. Evans will come to my office I will call in every man that answers that description into the office and let her see if she can detect who it is." Mr. Evans was very thankful, and then he told me that he had been for the last two nights very much annoyed by men congregating near the corner of his house and using profane and obscene language. Mr. Evans happened to live near a rather unfortunate part of the town.

Q. What do you mean by that remark, "An unfortunate part of the town?" Was that what you called the "tenderloin?"—A. Yes, sir; it is up in that direction somewhere. I never was there and can not tell you anything about it.

Q. Go ahead, then.—A. I think it is up somewhere near there.

except the finding of the clips and shells on the streets of Brownsville?—A. That is all, sir; and the report made to me by the citizens' committee.

By Senator OVERMAN:

Q. And that there were no bullet holes in the barracks?—A. Yes, sir; that was one reason, together with the finding of the clips and shells.

By Senator FORAKER:

Q. They might have been simply firing over, to frighten the men?—A. They might.

Q. You might explain that in that way, might you not?—A. Yes, sir.

Q. Passing over that, because that is a matter rather for argument, I will ask you if you had any reason to apprehend, before the night of the 13th, that there was any such trouble as this likely to occur?—A. Not in the least, sir. In fact, there was every reason to believe to the contrary until about half past 5 o'clock on the afternoon of the 13th, when Mr. Evans and Mayor Combe came into the post to see me about an alleged assault on Mrs. Evans. Up to that time I was congratulating myself on the men getting along as well as they had. I had talked to Mayor Combe, who was the attending surgeon at the post, on several occasions about the behavior of the men—he was in charge of the police force of Brownsville—and he told me they were getting along splendidly. That is the way he expressed it. He said, "They are getting along splendidly." And it was either the night of the 11th or the 12th—pay day was on the 11th, Saturday, the 11th, and it was on the evening of that day—that he called at my house and he was enthusiastic over the behavior of the men during pay day. There had been but one drunken man seen in the town, and he was within half a block of the post—he was noisy, singing and shouting—and he was arrested, and released the next morning with a fine of a dollar—released that evening, I think it was; released with a fine of a dollar.

Q. That was unusual, was it not, in their experience as a town where they had a post, always having soldiers there, that pay day should pass with only one arrest?—A. Yes, sir; I think it was. I do not recall that Doctor Combe expressed it in exactly that way.

Q. From your experience as an officer commanding men, can you tell us whether or not it is unusual for a battalion of 175 men to be paid off, and to have only one drunken fellow to arrest?—A. That is unusual; yes, sir.

Q. That is unusual?—A. Yes, sir; that is unusual.

Q. With white soldiers as well as colored soldiers?—A. Yes, sir.

Q. How did this battalion compare, as to conduct, with white soldiers?—A. Well, sir, as to the white soldiers I have served with for a great many years until I came to the Twenty-fifth, their behavior was better than that of the white soldiers.

Q. The behavior of this battalion?—A. I refer particularly to their behavior on pay day.

Q. Doctor Combe and Mr. Evans told you at this time, at about 5.30 on the evening of the 13th, that Mrs. Evans claimed that she had been assaulted by a soldier the night before?—A. Yes, sir.

to me: "Major, for God's sake get away from that gate; they will kill you." There was a light there.

Before I sent Captain Lyon out, or immediately afterwards, I had two squads from B Company thrown over to the left of the gate and extended toward the river. Captain Lyon was gone from half to three-quarters of an hour, and when he returned—

Q. Before you pass from that, let me ask you, for fear we do not get back to it, what seemed to be the idea of the men as to what was going on?—A. All of the men seemed to think that the post was being shot up. The firing had all ceased, however, when we got out along the brick wall.

Q. How long did it continue—while the companies were being formed in front of the barracks?—A. Up to about the time that the companies were formed, I think.

Q. You heard Sergeant Sanders calling the roll. Was the firing still going on then?—A. Yes, sir.

Q. At that time?—A. Yes, sir. When he was calling the roll it was still going on. I think it ceased just about the time the companies went out to take their positions along the brick wall.

Q. Now, you may come back to the point where you were.—A. Captain Lyon came back.

Q. The men remarked: "Keep away from the gate, or you will get hit?"—A. Yes, sir. During Captain Lyon's absence I walked up to the right of the line again and back. I questioned several of the men and the officers, asked them if they could see anything at all, if they had been able to see anybody, if they knew anything about it. They replied that they had not seen a thing.

Q. What did you find the men doing as you walked back and forth along the line?—A. They were stationed along the wall, according to my orders, in line of skirmishers, and they were peering over the wall, as nearly as I could see. It was so dark I could not see anybody until I got almost on top of them.

Q. And they could not see you until you got onto them?—A. No, sir.

Q. It was a very dark night, was it not?—A. A very dark night, although it was starlight.

Q. Did you come across anybody cleaning a gun out there while you were making these trips up and down the line?—A. No, sir.

Q. Did you see anybody doing anything of that sort?—A. No, sir.

Q. Go on.—A. When Captain Lyon came back he had Mayor Combe and his brother, Dr. Joe Combe. He came into the post, and they came right up to me. Captain Lyon was with him; and Mayor Combe said: "Major, this is a terrible affair;" and I said: "What is it?" He said: "A man has been killed," and I understood him to say that night that the chief of police was wounded and his horse killed. It happened to be the lieutenant of police. He also said: "Several houses have been shot into." I said: "Major, I can not believe it."

Q. Did he say your men had done it?—A. He said that my men had done it. He said: "Your men have done this thing. They have been seen by several parties." "Well," I said, "Major, I can not believe it. The report brought to me when they were formed was that there were but two men absent, and I can not believe it." "Well,"

he said, "it is so; they have been seen by several parties. There was a party of five in one bunch and a party of three in another." "Well," I said, "I can not believe it, sir." We had a little more conversation on that line, and he said he wished to speak to me privately.

Q. Before you get away from that, did he tell you where the bunch of five was seen and where the other bunch was seen?—A. No, sir; he did not. He simply told me that they had been seen. He then asked to speak to me privately, and we stepped away from the other officers that were there, and he said to me: "Major, you must realize that your men can not come into town after this. I can not be responsible for them if they come into town." I said: "I fully realize that, Major." I remembered that Lieutenant Lawrason was taking his meals in town, at the Leahy Hotel, and I asked him about Mr. Lawrason going out to take his meals. He thought a moment, and he said: "Well, I don't think it will be advisable for any officer to go in town, as the uniform alone might create feeling." So I said: "Very well, I will not allow any of my troops to go into town. Neither will I allow any of your civilians to enter the post. You can visit me, of course, at any time. I will give orders at the gate to have you admitted, and if you desire any particular person to see me, if you will give him a note, I will give orders at the gate that they shall be passed in."

With that he bade me good night and left. Now, before he went, and when he first told me about this thing, or about the time—I think that I had stepped off to one side—when he claimed that the men had done the shooting. I returned to the officers, and I said: "Gentlemen, I want you to verify your companies." The rolls were called. I suppose they were called—I did not hear them called—as I was talking to Doctor Combe. After he left, the reports were made to me that all were present but two from B Company.

Q. Up until the time he spoke to you, had anybody ever suggested or had the thought come into your mind that any of your men had anything to do with the shooting?—A. Not the least in the world, sir. I did not believe it when he told me.

Q. You did not believe it when he told you?—A. I did not, sir.

Q. When you had that talk with him, as a result of that you directed your company commanders to verify their companies?—A. Yes, sir; I directed them to verify their companies.

Q. Did you give any directions about the guns or ammunition?—A. Not at that time, sir. I did later. I kept the men in the positions they were in until about half past 3, I think; I am only judging of the time. I did not have a watch on that night. At about that hour I dismissed B and D Companies.

Q. B and D Companies?—A. Yes, sir; B and D Companies. I told the captains they could let the men go to their barracks and go to bed. I gave them orders, however, that I wanted them to see that the guns were locked in the racks and that the ammunition was verified, and I wanted that done as soon as it was light enough to see in the morning.

Q. Did you direct that the guns be verified also?—A. Yes, sir; the guns and ammunition.

Q. The guns and ammunition both?—A. Yes, sir; the guns and

ammunition both. I directed that as soon as it was light enough to see they should do that.

Q. Your direction about doing something when it was light enough to see had something to do with the inspection of the guns?—A. Entirely so. That I did for my own satisfaction only. I am under the impression that I said to some one of the officers, I do not know who it was, that I could not believe a word of it; that I did not believe a word of it, but for my own satisfaction I intended to have these guns inspected and the ammunition verified.

If I may go back just a moment or two, while Mayor Combe was in there Captain Macklin reported to me, and I told him to go and take charge of his company. On dismissing the two companies I had Captain Macklin's company extended along that whole line—that is, from near the Rio Grande River clear up to and around the guardhouse, and I left him in charge of the guard that night, with orders for him to remain awake and to notify me instantly if anything at all occurred. I then went home. I went first to Captain Lyon's quarters, where the ladies had congregated. I had previously sent a noncommissioned officer and two men over to that house.

Q. Do you remember who that noncommissioned officer was?—A. Yes, sir; it was Corpl. Ray Burdett. I sent him over there to see that nothing happened to the ladies. We went over there and found the ladies all at Captain Lyon's, and after talking a few moments or more I took my wife home, and I sat beside her the rest of the night. She was nervous and could not go to sleep, and I did not go to bed at all; I sat beside her.

Q. You did not retire?—A. No, sir; I sat beside her. I did not even take off my shoes. Before daylight I went over and looked along the line of Captain Macklin, and I asked him if he had seen anything at all, and he reported that everything had been quiet, and the only thing he had seen was a man who had crept down Elizabeth street opposite the Leahy Hotel and had turned out the street lamp that was there. That was the only thing he had seen.

Q. That was probably the street lamplighter?—A. Well, I do not know who it was, sir.

Q. Yes. He did not know and did not tell you?—A. No, sir. He said that he saw a man sneak down the street, as he expressed it, and turn this light out. Now, before it was really light I went to the barracks again, and as soon as it got light enough for me to see I inspected the rear of the barracks. I commenced with Company C barracks and went right along to Company D. I inspected the lower galleries first and then I went upstairs, and I inspected them very carefully—I inspected the railings, even—expecting to find them full of holes, but there were no bullet scars whatever. I also looked along on the floor, as I went, to see any indications of splinters, or anything of that kind, and I could not find anything whatever. I came down. I went back to Captain Macklin, and I said: "Captain, I wish you would go out alongside of the wall and see if you can find any ammunition there; any fired cartridges." He went along the wall, and I watched him until he got up beyond this latrine of B Company, and directly he came back into the post with his arms this way [indicating].

Q. Crossed?—A. Crossed just like this. I supposed that he had something, and I walked out toward the middle of the parade

Q. After you got down to Fort Reno that continued, did it not?—A. Yes, sir; that continued. I called the noncommissioned officers together at Reno several times and talked with them, and I talked with many of the privates that I happened to know. One of them had been with me for nearly two years, taking care of my horses—a man that I placed a great deal of dependence in.

Q. Who is that?—A. Private Elmer Brown.

Q. Yes; Elmer Brown.—A. Yes, sir; a man I relied on. He was out all the time among the men trying to ferret this out, and every day he would tell me what he had done.

Q. While you were at Fort Reno the men were kept practically in confinement in the garrison?—A. Yes, sir.

Q. And were kept at fatigue duty and other kinds of duty all the time?—A. I kept them within the limits of the post proper, which is inclosed by a fence. They were not permitted to leave that. I had extra drills, and put on extra sentinels to give them extra duty, and I gave them police work; that is, working about the post at all other times. They were deprived of all privileges, and from a short time after we arrived there until the battalion was discharged in November there were but five violations of that order that I know of.

Q. And those men were court-martialed, were they not?—A. They were all court-martialed and dishonorably discharged, and are now in confinement at Fort Reno.

Q. State whether or not they were told that if they would tell who did this firing at Brownsville, if they had any knowledge on the subject, their sentences would be commuted or modified.—A. There were two of the men whose names I can not recall, but I have a memorandum of them at my house. One of them was a noncommissioned officer who violated this rule and went in town. He told me perfectly frankly what he went in town for, and he begged to get out of it, and said that he was anxious to stay in the service; and I said to him, "Well, now, Corporal, I have but one rule in these matters, and that is charges; but if you will tell me any man, or if you can find out any man, or if you can get any clew that will lead to the identity of any man or men connected with this deed, I will tear these charges up. They will not be preferred against you." He held up his hand and said, "I swear before Almighty God I do not know anything about this thing," and the tears were streaming down his cheeks at the time.

Q. State whether or not they were told that if they did not tell what they knew about this they would be discharged without honor and would lose all that they had gained by reason of their long service.—A. Yes, sir; they were told that.

Q. They were told that by General Garlington?—A. By General Garlington, Inspector-General of the Army.

Q. And by all the officers, were they not?—A. The battalion was formed in a hollow square, open on one side, and General Garlington addressed the men himself.

Q. Well, state whether or not that was a serious matter to these men, so far as you could judge.—A. Why, it was an extremely serious matter to most of them. Most of them were men who had put in more than one enlistment, many of them a number. We had a good many men of ten, twelve, and fifteen years' service, and more.

Q. Some of them had twenty years' service?—A. Yes, sir; Sergeant Sanders, I think, had twenty-three or twenty-four years.

Q. He had twenty-six years in the service. Part of it he was entitled to double time for, I believe?—A. Yes, sir. He could have retired within two years. These men had everything to lose and nothing in the world to gain by keeping this back.

Q. You did not, nor did anybody else so far as you know, at any time get any clew to who did this shooting?—A. Not the slightest.

Q. Have you any knowledge that leads you to suspect any man in either one of these companies of guilt of that offense?—A. Not the slightest, sir.

Q. You were of opinion at the time you sent this telegram to the Military Secretary that your men had done this shooting. What is your present belief about it?—A. Up to the time of my court-martial, which commenced on the 4th of February at San Antonio, I was of the belief that some of my men were implicated in this matter; but since that time, having heard the testimony adduced before my court and having read very carefully the testimony that has been brought out before this committee, there is a strong, a very strong, belief in my mind that my men had nothing whatever to do with it.

Q. Yes. If your men had done that shooting, would it have been possible for them to have cleaned their guns and put them in the situation in which they were found the next morning when they were inspected?—A. Well, I do not see how it could have been. Maybe it is possible; but I do not know how it could be.

Q. All things are possible, in a sense; I mean, reasonably possible. Is there any reasonable probability of any such thing having been done?—A. I do not think so, sir.

Q. Would it have been possible if they had gone out and shot 150 or 200 rounds of cartridges that night that there would have been no missing cartridges when the cartridges were examined and counted up?—A. I do not think so, sir, because the cartridges were all packed when we left Fort Niobrara, and there were none of them opened, so the company commanders told me, until that night, when they were opened to give the men additional ammunition.

Q. That was after the firing?—A. That was while the firing was going on.

Q. I mean after it commenced?—A. Yes, sir; after it commenced.

Q. And all the ammunition was not only inspected, but it was checked up, was it not?—A. Yes, sir.

Q. I mean counted, round by round?—A. Yes, sir; those were my instructions. It was also reported to me.

Q. Major, can you think of any man in this whole battalion with whom you talked and from whom you undertook to get information who, as you now look at it, has withheld from you any knowledge on this subject?—A. No, sir; I have no reason to believe that of any of them.

Q. Did they, when you undertook to get information from them, act differently from what you would expect if they were telling you the truth about it?—A. No, sir; there was none of them that ever struck me that way.

Q. These men, especially the older men and the noncommissioned officers, had your confidence as men of truth and veracity, I understood you to say?—A. Yes, sir; they had.

By Senator OVERMAN :

Q. You were very properly, I think, acquitted of dereliction in this matter, were you not?—A. Yes, sir.

Q. But the same court-martial which acquitted you found, as a fact, that the shooting up of the town was done by your men?—A. They did, sir.

By Senator FORAKER :

Q. The men were not on trial, however, before that court-martial, were they, Major?—A. I did not consider that they were.

Q. They were not represented there except incidentally, possibly?—A. No, sir.

(A short informal discussion between the members of the committee followed.)

By the CHAIRMAN :

Q. Right in line with what you have narrated to-day, I judge from your narration that the relations were pleasant between Mayor Combe and yourself.—A. Very pleasant indeed, sir.

Q. And the relations with those in town were pleasant?—A. I knew but very few in town, but they were very pleasant.

Q. There was nothing unpleasant?—A. Nothing unpleasant whatever, sir.

Q. So far as you know, you think the relations of your officers with the people of the town were pleasant?—A. I think they were very pleasant.

Q. How were those of the men?—A. As far as I know, outside of one or two little affairs that happened there, there was no unusual feeling, or I might say no more feeling than you would usually find in the South against the soldiers.

Q. That is, just generally?—A. Generally speaking; yes, sir.

Q. As far as you know, in the town were there factional differences—that is, between Mexicans and white men—or anything of that kind that you know of?—A. Senator, I can not tell you. I was not in that town but a few times, and three of the times I drove through the town, so I could not tell you.

Q. What I wanted to get at was, so far as you know, there were no feuds either between yourselves and the town or between the town and any other town or between different people in the town?—A. No, sir; I do not know anything about that at all. I have never heard anything of the sort.

Q. Was there anything to indicate to your mind any state of feeling that would bring about this shooting?—A. Nothing in the least.

Q. Neither between soldiers and citizens nor between different classes of citizens?—A. No, sir; nothing at all. Of course I felt apprehensive for my men after Mr. Evans had made that report to me on the evening of the 13th.

Q. How did you feel after your battalion had been located there? Did you feel as if it had been welcomed by the town, as it would be with other soldiers, or otherwise?—A. Well, no, sir; I can not say that I did think it was welcomed the way other soldiers would have been. I recall that when we marched through the town going from the depot to the post people were standing along the streets, but there were no smiling faces or anything of that kind, as you might

imagine when you are coming to a new post—a little hand clapping or a little cheering sometimes. There was nothing of that.

By Senator OVERMAN:

Q. Was there anything to indicate resentment on the part of the people?—A. No, sir; unless it was sullenness; that was all.

Q. They just looked on?—A. Just looked on, with no expression at all.

Q. They did not seem to be happy over it?—A. No, sir; they did not seem to be happy over it.

Q. No more than any other people would, I suppose?—A. Probably so, sir.

(At 4.15 o'clock p. m. the committee adjourned until to-morrow, Thursday, April 4, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, April 4, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Bulkeley, Hemenway, Warner, Pettus, and Overman.

TESTIMONY OF MAJ. CHARLES W. PENROSE, U. S. ARMY—Continued

By Senator FORAKER:

Q. For fear I will forget it, I will ask you one or two other questions before I stop the direct examination. I remember seeing in some evidence that was given a statement to the effect that Mayor Combe told you, either the night of the firing when he first came to see you in company with Captain Lyon or at some other time, that there were 300 armed men assembled on the street downtown, somewhere, whom he had succeeded in dissuading from making an attack on the fort. What is the truth about that statement?—A. That is the statement, sir. He made that statement to me when he came in on the night of the 13th and 14th of August, when he came in with Captain Lyon. I forgot to mention that in my direct testimony yesterday, but he stated that he had just turned back, as he expressed it, a body of about 300 armed men; that they were greatly excited, and that he had made them a little speech, and requested them to disperse and go to their homes.

Q. Where did this assemblage of 300 armed men occur?—A. In the city of Brownsville. He did not tell me where.

Q. He did not tell you?—A. No, sir.

Q. Did you get any impression as to where it was; whether it was down by the river?—A. No, sir; I rather thought it might be up on Elizabeth street. That is the principal street of the town.

Q. He did not say, that you remember?—A. No, sir; I do not think he did.

Q. Did he tell you with what they were armed, with what kind of guns?—A. No, sir.

Q. He told you this about an hour after the firing was over, did he?—A. Yes, sir; about an hour; a little more than an hour, I think.

Q. It was when he came in with Captain Lyon?—A. Yes, sir.

Q. That was about an hour afterwards?—A. Yes, sir.

Q. Not more than an hour. And he had already dispersed that crowd that had assembled in that large number?—A. Yes, sir; so he told me. He said that he made a speech and dispersed them before he came up to the fort.

Q. Now, one other matter. I saw that Captain McDonald, of the State Rangers, was credited by some one with saying that when he caused 12 men out of your battalion to be arrested, in a conversation he had with you you admitted that he had six of the guilty men, or words to that effect. Do you remember that conversation or any such conversation?—A. Not at all, sir.

Q. Or do you remember making any such statement?—A. I did not. On the contrary, I told him I did not think he had a man.

Senator WARNER. I submit, Senator, that you should not put in the record the fact that Captain McDonald made that statement unless we have it before us.

Senator FORAKER. It is in a statement somewhere made by Captain McDonald. I only wanted to cover it in case it should come up. I have not attempted to give the exact statement.

By Senator FORAKER:

Q. You do not remember anything of that sort?—A. No, sir.

Q. Have you ever seen any statement that McDonald made—any such statement as that?—A. No, sir. The only statement I have ever seen was, I think, in the San Antonio Express.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Major, in order that I may get it plainly I will ask you, you were in a position to hear all of that shooting?—A. Yes, sir.

Q. Being awake?—A. Yes, sir.

Q. And being in command of the post, you were very much interested, of course, in the good order?—A. Yes, sir.

Q. And discipline of the post?—A. Yes, sir.

Q. The first shots you heard, you are distinct in your remembrance about them, are you, Major?—A. Very distinct indeed.

Q. Those you took to be two pistol shots?—A. Yes, sir; I think there is no doubt about that at all. There is no doubt in my mind about it.

Q. No; I say you have no doubt. And the next shots you heard were from what you call high-power rifles?—A. Yes, sir.

Q. And the shooting continued with high-power rifles?—A. Rifles, and there were pistols intermingled with that shooting.

Q. Were not the pistols at the last?—A. No, sir; I heard some pistols soon after the first of the shooting. I am satisfied I heard pistol shots mingled with that all the way through. Maybe there were about 12 or 15. I could not say.

Q. When you speak of high-power guns, you mean the Springfield rifle or a rifle of equally high power?—A. When I speak of high-power guns I mean the Springfield, the Krag, and the Winchester.

found at page 66 of Senate Document 155, and is Exhibit A of Major Blocksom's report. I will ask to have that incorporated in the witness's testimony at this point. It reads as follows:

A.

FORT BROWN, TEX., August 14, 1906.

The MILITARY SECRETARY,

Department of Texas, San Antonio, Tex.:

Regret to report serious shooting in Brownsville last evening, in which one civilian was killed and chief of police so seriously wounded that right arm will have to be amputated. Brownsville officials claim shooting was done by enlisted men of this command, and are borne out in their opinion by empty shells and clips picked up in the streets. Shooting occurred about midnight, and within five minutes afterwards entire command paraded and all men found present or accounted for and rifles in racks locked. All men now confined to garrison, and no one permitted to enter post but mayor of city, or on his personal request to me. Feeling very high in city, but believe mayor has it under control. Am doing everything in my power to find guilty parties if they be in this command. Practice marches suspended. Full particulars by mail.

PENROSE, Commanding.

The WITNESS. Allow me to interrupt you there, Senator. I think I made a mistake in the time there. It was probably seven or eight minutes, or nine minutes, maybe, before the command was out alongside the fence. I think I gave that time as too short there.

By Senator FORAKER:

Q. With that amendment, that is correct?—A. Yes, sir; that is correct, sir, as I recall it.

Q. You do not express any opinion here as to whether the men are guilty or not. You simply report the fact that it is claimed that the men are guilty?—A. That is all, sir.

Q. The next telegram appears to have been sent August 15, 1906, and in that you recited the occurrences just as you have narrated them here?—A. Yes, sir.

The CHAIRMAN. Is that a telegram or a report?

Senator FORAKER. It may have been a report.

The WITNESS. I wrote that report on the evening of the 15th or on the night of the 15th.

Senator WARNER. It is dated the 15th?

The WITNESS. Yes, sir; it was the 15th.

By Senator FORAKER:

Q. In the course of this report you used the following language, and I quote from page 68 of Senate Document 155:

Were it not for the damaging evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime, but with this fact so painfully before me I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand. I have the affidavits from three noncommissioned officers who were in charge of quarters on the day and night, and they swear positively the rifles were verified and the racks locked after drill (practice march of Companies B and D, drill of Company C), and the old guard returned to the quarters; that they never left the quarters, and that the keys to the locks of the racks were never out of their possession, and that the racks were not opened until call to arms sounded, and were then opened by them.

I will ask you whether or not there was at any time any evidence that to your mind indicated that your men had done this shooting

except the finding of the clips and shells on the streets of Brownsville?—A. That is all, sir; and the report made to me by the citizens' committee.

By Senator OVERMAN:

Q. And that there were no bullet holes in the barracks?—A. Yes, sir; that was one reason, together with the finding of the clips and shells.

By Senator FORAKER:

Q. They might have been simply firing over, to frighten the men?—A. They might.

Q. You might explain that in that way, might you not?—A. Yes, sir.

Q. Passing over that, because that is a matter rather for argument, I will ask you if you had any reason to apprehend, before the night of the 13th, that there was any such trouble as this likely to occur?—A. Not in the least, sir. In fact, there was every reason to believe to the contrary until about half past 5 o'clock on the afternoon of the 13th, when Mr. Evans and Mayor Combe came into the post to see me about an alleged assault on Mrs. Evans. Up to that time I was congratulating myself on the men getting along as well as they had. I had talked to Mayor Combe, who was the attending surgeon at the post, on several occasions about the behavior of the men—he was in charge of the police force of Brownsville—and he told me they were getting along splendidly. That is the way he expressed it. He said, "They are getting along splendidly." And it was either the night of the 11th or the 12th—pay day was on the 11th, Saturday, the 11th, and it was on the evening of that day—that he called at my house and he was enthusiastic over the behavior of the men during pay day. There had been but one drunken man seen in the town, and he was within half a block of the post—he was noisy, singing and shouting—and he was arrested, and released the next morning with a fine of a dollar—released that evening, I think it was; released with a fine of a dollar.

Q. That was unusual, was it not, in their experience as a town where they had a post, always having soldiers there, that pay day should pass with only one arrest?—A. Yes, sir; I think it was. I do not recall that Doctor Combe expressed it in exactly that way.

Q. From your experience as an officer commanding men, can you tell us whether or not it is unusual for a battalion of 175 men to be paid off, and to have only one drunken fellow to arrest?—A. That is unusual; yes, sir.

Q. That is unusual?—A. Yes, sir; that is unusual.

Q. With white soldiers as well as colored soldiers?—A. Yes, sir.

Q. How did this battalion compare, as to conduct, with white soldiers?—A. Well, sir, as to the white soldiers I have served with for a great many years until I came to the Twenty-fifth, their behavior was better than that of the white soldiers.

Q. The behavior of this battalion?—A. I refer particularly to their behavior on pay day.

Q. Doctor Combe and Mr. Evans told you at this time, at about 5.30 on the evening of the 13th, that Mrs. Evans claimed that she had been assaulted by a soldier the night before?—A. Yes, sir.

Q. Had you heard of it until that time?—A. No, sir; I never heard a word of it.

Q. No complaint had been made to you during the day?—A. No, sir; not the slightest, and that had occurred the evening before, the evening of the 12th. Mr. Evans told me it was about 9 o'clock Sunday evening.

Q. And this was Monday evening?—A. Yes, sir.

Q. And he told you there was a good deal of bad feeling on the part of the people of the town?—A. No, sir; not at all.

Q. What did he tell you?—A. He simply came in with Doctor Combe, who introduced him to me. I had never met him before, and never seen him, and he told me that the night before he and his wife had been, I think, at the railroad depot, and had started home, and they met a gentleman who was riding Mrs. Evans's pony, and this gentleman insisted that Mrs. Evans should get on her own pony and ride home. So Mr. Evans put her on the pony, mounted her on the pony, and she started off, leaving the two men to walk on, and she said that when she got to her home she got off of her pony, opened the back gate, and was going up toward the back steps—I think she must have been near the back steps—when some one rose up from behind a barrel and seized her by the back hair and threw her to the ground—he said "violently to the ground"—and she screamed, and the man ran away.

I asked him what description Mrs. Evans could give of the man. He said that the only description that she could give—it was only a fleeting glance she had of him—was that he was a large, tall, black negro, wearing khaki trousers, a blue shirt, and a slouch hat. I said, "Well, Mr. Evans, I have a great many men in my command that would answer that description, who are large and tall and black." I said, "Can not your wife give me any better description than that?" He said no, that he was afraid she could not; that she was very much frightened, and that was about all that she saw. Well, then, I asked him why he had not reported this matter before. I said, "Here it is nearly twenty hours, and you have not reported this to me," and he said, "Well, Major, I know it, but my wife was so excited and wrought up that I didn't feel that I could leave her." I said, "Mr. Evans, I regret this matter deeply. Nothing, to my mind, could be worse, and I will do everything in my power to find this man; but you can see that I am almost helpless with this description." I asked him if a day or two later, when his wife was more calm, she would not see if she could not recollect some further distinguishing feature, and I said, "If Mrs. Evans will come to my office I will call in every man that answers that description into the office and let her see if she can detect who it is." Mr. Evans was very thankful, and then he told me that he had been for the last two nights very much annoyed by men congregating near the corner of his house and using profane and obscene language. Mr. Evans happened to live near a rather unfortunate part of the town.

Q. What do you mean by that remark, "An unfortunate part of the town?" Was that what you called the "tenderloin?"—A. Yes, sir; it is up in that direction somewhere. I never was there and can not tell you anything about it.

Q. Go ahead, then.—A. I think it is up somewhere near there.

By Senator WARNER:

Q. Mr. Evans was an entirely respectable man?—A. Oh, entirely; yes, sir; absolutely, and his wife. I do not wish to be considered for an instant as saying anything else. I said that he lived near that, not in it.

Q. I assumed so. I just wanted it in the record. I only asked the question.

Senator OVERMAN. It is a proper question to put in there, because you would have to ask it on the cross-examination.

By Senator FORAKER:

Q. No one has located that house, and that is the reason I asked you to locate it. Go ahead.—A. He said that on one of the evenings he had gone out and asked them very nicely if they would not go away, and one of the men had said to him, "You come out and put us off." I said, "Mr. Evans, that is a matter that you ought to have reported at once. That is a matter that I can stop for you immediately. If necessary, I would put a guard over your house so that you would not be annoyed at all." He said that he was sorry that he had not; that he would have to move away from this locality, and I said, "Mr. Evans, so far as these men are concerned, if they have been annoying you I can promise you you will not be annoyed again, because I can put a guard there and keep it there all the time." He thanked me, and he and Doctor Combe and I had a little private conversation, and he left the office.

Q. He went away, so far as you could observe, satisfied with the way you talked to him about it?—A. Yes, sir; perfectly so.

Q. Now, you issued special instructions that night with respect to men out on passes?—A. Yes, sir.

Q. And with respect to patrolling the city, did you not?—A. Yes, sir.

Q. What was the cause of your action in that regard?—A. It was the Evans incident. I was afraid that it might, probably would, inflame the feeling of the people. It would generally do so anywhere. I first went down to the post exchange to see whether Captain Macklin was there. He was officer of the day and also exchange officer, and I frequently found him in the exchange. He was not there, and I called over to the guardhouse to see if he was there, and they said he was not, and I went down and found him at his quarters, and I told him that all passes would be recalled that night at 8 o'clock—that was about dark—and that I wanted him to send out at least three patrols in the town to warn all the men to come in by 8 o'clock, and if any resisted at all I wanted them brought in, and that nobody, no enlisted man, would be allowed to leave the post that night. I also found the adjutant and gave him the same order to give to the company commanders, to be published at retreat roll call, that all passes would be recalled at 8 o'clock and no one allowed to leave the garrison after that hour.

Q. Had you any fear at the time you gave that order, as a reason for giving it, that your men were likely to go out and shoot up the town?—A. Not at all, sir. I was afraid that some of the men might slip out by ones and twos, or something of the kind, and be dealt with harshly.

Q. You were afraid that some of the citizens, on account of this Mrs. Evans incident, would do injury to your men?—A. Yes, sir.

Q. You did not deem it necessary, in view of the situation as you understood it, to take any other precautions than those you have described?—A. Not at all, sir.

Q. Had you at that time heard any threats on the part of your men to do any violence to anybody in the city?—A. Never, sir.

Q. Had anybody ever suggested any such thing?—A. No, sir.

Q. And their character and reputation were such that you did not anticipate any such thing at all?—A. Not the slightest, sir. That was the farthest thing from my mind.

Q. In this telegram which you have said you sent to the military secretary of the Department of Texas, you said that but for the painful evidence of the clips and shells you would not think that your men had participated in the shooting. That indicates that you had then reached the conclusion that some of your men had done the shooting.—A. Yes, sir.

Q. State what efforts you made, if any at all, to find out whether your men had done the shooting?—A. I commenced at once, on the morning of the 14th, as vigorous an investigation as I knew how to make. I had the guard brought down to my office, and I inspected each member of the guard. It took me some time, before I got through with them all, on account of the meeting with the Citizens' Committee. I instructed each company commander that he should make a personal investigation of each man in his company. I wanted each man called in alone and questioned in regard to this, and I wanted all these questions asked with a view of putting the answers afterwards into affidavits. I questioned many of the noncommissioned officers myself. I commenced with Sergeant Taliaferro, the sergeant-major, and I do not know how many I examined myself, and the officers went on with this investigation at once. That was at Fort Brown. We found absolutely nothing that would lead us to the slightest clew in the world. I appealed to the older noncommissioned officers and the older men, and told them that this thing would have to be ferreted out; that it was a stain on the battalion that could never be washed off unless they could find who these perpetrators were. I appealed to them on behalf of the regiment and of the battalion and of the company and of the Army and of the colored race.

Q. These men were proud of their record as soldiers?—A. Yes, sir.

Q. And proud of their good name?—A. Yes, sir.

Q. And proud of their regiment, and proud of their company name?—A. Yes, sir; I think I can say that as to every man.

Q. When Major Blocksom came, that same work went on with his help, did it not?—A. We called there every man in the battalion.

Q. You did everything you could, and every other officer did everything he could, and Major Blocksom did everything that he could?—A. I think so, sir.

Q. And you think your noncommissioned officers were doing all they could?—A. I certainly do.

Q. And none of you could find any clue of any kind?—A. Not the slightest.

Q. As to the guilt of any men of the battalion?—A. Not the slightest.

ground, and he joined me, and he opened his hands in this manner [indicating]. He had five clips in this hand, in his right hand, and he had six or seven or eight shells in this hand—fired cartridges. I said, "Well, Macklin, I am afraid our men have done this shooting;" I said, "That looks bad," and I said, "What did you see out there; anything more?" He said, "No; there were no more, but there were a number of men up the Cowen alley, evidently picking up something. I could see them reaching down now and then."

Q. Before we get away from that place, tell us at what time it was that Captain Macklin went out under your order and gathered up these clips and shells?—A. I should think it was about 6 o'clock, sir.

Q. With respect to daylight, I mean.—A. It was daylight. It was so that you could see plainly.

Q. He has testified that it was just about the break of day.—A. That was just about the time. I think he could see. I had been along the barracks, and I could see.

Q. He said that he picked up all he could see?—A. Yes; he said that he picked up all in sight. He said he found them right there outside the Cowen alley.

Q. Go on with your story in your own way.—A. Captain Lyon and Lieutenant Lawrason were inspecting their companies then, and I stood out on the parade ground watching B Company—and I was not paying much attention to Captain Lyon; I was simply watching Lawrason—and Lawrason dropped several men to the rear and had them formed on the right of the company. When he got through there were seven in all, and he said "Major, I wish you would inspect these guns." I inspected the guns, and they were not bright, but I do not think they had been fired; they did not have that peculiar grayish tint; but to make sure I called over to Captain Lyon, who had just finished his company at that time, and I said "Lyon, I wish you would inspect these rifles." He inspected them, and I asked him "What do you think?" He said "I do not think they have been fired." I called to a noncommissioned officer who was there and asked for a cleaning rod and some rags, and they were brought, and Captain Lyon and myself ran those rags through the barrels of the guns, inspecting them very carefully, smelling of them too—you can detect it quicker by smelling than you can by anything else when they have been recently fired—and there was no sign of these rifles having been fired. Captain Lyon reported that his rifles were all bright and clean, and that none of them had been fired, and Captain Macklin, after he had examined his rifles, while the men were still along the fence, and also those of the guard, reported to me that none of them showed any signs of firing whatever. I had given orders, I think it was during the night before I went home, that B Company should relieve C Company at reveille, immediately after this inspection, and B Company had gone out to relieve C Company before I had finished inspecting these seven men of B Company. I directed them to join their company. After that, later, the officers reported to me that they had verified their ammunition and had found it intact.

Q. That is, there were no missing cartridges?—A. They said there was nothing missing at all, sir; they accounted for every cartridge.

Q. Did they report to you that they had also verified the number

Q. Some of them had twenty years' service?—A. Yes, sir; Sergeant Sanders, I think, had twenty-three or twenty-four years.

Q. He had twenty-six years in the service. Part of it he was entitled to double time for, I believe?—A. Yes, sir. He could have retired within two years. These men had everything to lose and nothing in the world to gain by keeping this back.

Q. You did not, nor did anybody else so far as you know, at any time get any clew to who did this shooting?—A. Not the slightest.

Q. Have you any knowledge that leads you to suspect any man in either one of these companies of guilt of that offense?—A. Not the slightest, sir.

Q. You were of opinion at the time you sent this telegram to the Military Secretary that your men had done this shooting. What is your present belief about it?—A. Up to the time of my court-martial, which commenced on the 4th of February at San Antonio, I was of the belief that some of my men were implicated in this matter; but since that time, having heard the testimony adduced before my court and having read very carefully the testimony that has been brought out before this committee, there is a strong, a very strong, belief in my mind that my men had nothing whatever to do with it.

Q. Yes. If your men had done that shooting, would it have been possible for them to have cleaned their guns and put them in the situation in which they were found the next morning when they were inspected?—A. Well, I do not see how it could have been. Maybe it is possible; but I do not know how it could be.

Q. All things are possible, in a sense; I mean, reasonably possible. Is there any reasonable probability of any such thing having been done?—A. I do not think so, sir.

Q. Would it have been possible if they had gone out and shot 150 or 200 rounds of cartridges that night that there would have been no missing cartridges when the cartridges were examined and counted up?—A. I do not think so, sir, because the cartridges were all packed when we left Fort Niobrara, and there were none of them opened, so the company commanders told me, until that night, when they were opened to give the men additional ammunition.

Q. That was after the firing?—A. That was while the firing was going on.

Q. I mean after it commenced?—A. Yes, sir; after it commenced.

Q. And all the ammunition was not only inspected, but it was checked up, was it not?—A. Yes, sir.

Q. I mean counted, round by round?—A. Yes, sir; those were my instructions. It was also reported to me.

Q. Major, can you think of any man in this whole battalion with whom you talked and from whom you undertook to get information who, as you now look at it, has withheld from you any knowledge on this subject?—A. No, sir; I have no reason to believe that of any of them.

Q. Did they, when you undertook to get information from them, act differently from what you would expect if they were telling you the truth about it?—A. No, sir; there was none of them that ever struck me that way.

Q. These men, especially the older men and the noncommissioned officers, had your confidence as men of truth and veracity, I understood you to say?—A. Yes, sir; they had.

By Senator OVERMAN :

Q. You were very properly, I think, acquitted of dereliction in this matter, were you not?—A. Yes, sir.

Q. But the same court-martial which acquitted you found, as a fact, that the shooting up of the town was done by your men?—A. They did, sir.

By Senator FORAKER :

Q. The men were not on trial, however, before that court-martial, were they, Major?—A. I did not consider that they were.

Q. They were not represented there except incidentally, possibly?—A. No, sir.

(A short informal discussion between the members of the committee followed.)

By the CHAIRMAN :

Q. Right in line with what you have narrated to-day, I judge from your narration that the relations were pleasant between Mayor Combe and yourself.—A. Very pleasant indeed, sir.

Q. And the relations with those in town were pleasant?—A. I knew but very few in town, but they were very pleasant.

Q. There was nothing unpleasant?—A. Nothing unpleasant whatever, sir.

Q. So far as you know, you think the relations of your officers with the people of the town were pleasant?—A. I think they were very pleasant.

Q. How were those of the men?—A. As far as I know, outside of one or two little affairs that happened there, there was no unusual feeling, or I might say no more feeling than you would usually find in the South against the soldiers.

Q. That is, just generally?—A. Generally speaking; yes, sir.

Q. As far as you know, in the town were there factional differences—that is, between Mexicans and white men—or anything of that kind that you know of?—A. Senator, I can not tell you. I was not in that town but a few times, and three of the times I drove through the town, so I could not tell you.

Q. What I wanted to get at was, so far as you know, there were no feuds either between yourselves and the town or between the town and any other town or between different people in the town?—A. No, sir; I do not know anything about that at all. I have never heard anything of the sort.

Q. Was there anything to indicate to your mind any state of feeling that would bring about this shooting?—A. Nothing in the least.

Q. Neither between soldiers and citizens nor between different classes of citizens?—A. No, sir; nothing at all. Of course I felt apprehensive for my men after Mr. Evans had made that report to me on the evening of the 13th.

Q. How did you feel after your battalion had been located there? Did you feel as if it had been welcomed by the town, as it would be with other soldiers, or otherwise?—A. Well, no, sir; I can not say that I did think it was welcomed the way other soldiers would have been. I recall that when we marched through the town going from the depot to the post people were standing along the streets, but there were no smiling faces or anything of that kind, as you might

imagine when you are coming to a new post—a little hand clapping or a little cheering sometimes. There was nothing of that.

By Senator OVERMAN:

Q. Was there anything to indicate resentment on the part of the people?—A. No, sir; unless it was sullenness; that was all.

Q. They just looked on?—A. Just looked on, with no expression at all.

Q. They did not seem to be happy over it?—A. No, sir; they did not seem to be happy over it.

Q. No more than any other people would, I suppose?—A. Probably so, sir.

(At 4.15 o'clock p. m. the committee adjourned until to-morrow, Thursday, April 4, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Thursday, April 4, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Bulkeley, Hemenway, Warner, Pettus, and Overman.

TESTIMONY OF MAJ. CHARLES W. PENROSE, U. S. ARMY—Continued

By Senator FORAKER:

Q. For fear I will forget it, I will ask you one or two other questions before I stop the direct examination. I remember seeing in some evidence that was given a statement to the effect that Mayor Combe told you, either the night of the firing when he first came to see you in company with Captain Lyon or at some other time, that there were 300 armed men assembled on the street downtown, somewhere, whom he had succeeded in dissuading from making an attack on the fort. What is the truth about that statement?—A. That is the statement, sir. He made that statement to me when he came in on the night of the 13th and 14th of August, when he came in with Captain Lyon. I forgot to mention that in my direct testimony yesterday, but he stated that he had just turned back, as he expressed it, a body of about 300 armed men; that they were greatly excited, and that he had made them a little speech, and requested them to disperse and go to their homes.

Q. Where did this assemblage of 300 armed men occur?—A. In the city of Brownsville. He did not tell me where.

Q. He did not tell you?—A. No, sir.

Q. Did you get any impression as to where it was; whether it was down by the river?—A. No, sir; I rather thought it might be up on Elizabeth street. That is the principal street of the town.

Q. He did not say, that you remember?—A. No, sir; I do not think he did.

Q. Did he tell you with what they were armed, with what kind of guns?—A. No, sir.

Q. He told you this about an hour after the firing was over, did he?—A. Yes, sir; about an hour; a little more than an hour, I think.

Q. It was when he came in with Captain Lyon?—A. Yes, sir.

Q. That was about an hour afterwards?—A. Yes, sir.

Q. Not more than an hour. And he had already dispersed that crowd that had assembled in that large number?—A. Yes, sir; so he told me. He said that he made a speech and dispersed them before he came up to the fort.

Q. Now, one other matter. I saw that Captain McDonald, of the State Rangers, was credited by some one with saying that when he caused 12 men out of your battalion to be arrested, in a conversation he had with you you admitted that he had six of the guilty men, or words to that effect. Do you remember that conversation or any such conversation?—A. Not at all, sir.

Q. Or do you remember making any such statement?—A. I did not. On the contrary, I told him I did not think he had a man.

Senator WARNER. I submit, Senator, that you should not put in the record the fact that Captain McDonald made that statement unless we have it before us.

Senator FORAKER. It is in a statement somewhere made by Captain McDonald. I only wanted to cover it in case it should come up. I have not attempted to give the exact statement.

By Senator FORAKER:

Q. You do not remember anything of that sort?—A. No, sir.

Q. Have you ever seen any statement that McDonald made—any such statement as that?—A. No, sir. The only statement I have ever seen was, I think, in the San Antonio Express.

Senator FORAKER. That is all.

By Senator WARNER:

Q. Major, in order that I may get it plainly I will ask you, you were in a position to hear all of that shooting?—A. Yes, sir.

Q. Being awake?—A. Yes, sir.

Q. And being in command of the post, you were very much interested, of course, in the good order—A. Yes, sir.

Q. And discipline of the post?—A. Yes, sir.

Q. The first shots you heard, you are distinct in your remembrance about them, are you, Major?—A. Very distinct indeed.

Q. Those you took to be two pistol shots?—A. Yes, sir; I think there is no doubt about that at all. There is no doubt in my mind about it.

Q. No; I say you have no doubt. And the next shots you heard were from what you call high-power rifles?—A. Yes, sir.

Q. And the shooting continued with high-power rifles?—A. Rifles, and there were pistols intermingled with that shooting.

Q. Were not the pistols at the last?—A. No, sir; I heard some pistols soon after the first of the shooting. I am satisfied I heard pistol shots mingled with that all the way through. Maybe there were about 12 or 15. I could not say.

Q. When you speak of high-power guns, you mean the Springfield rifle or a rifle of equally high power?—A. When I speak of high-power guns I mean the Springfield, the Krag, and the Winchester.

Q. Without going over them, you mean guns of equally high power?—A. Yes, sir; the present sporting rifle of to-day.

Q. And as far as you know, all of those high-power reports that you heard were from Springfield rifles?—A. No, sir; I do not say that. I can not tell a Springfield rifle from the others.

Q. I say they may have been, so far as you know, all from Springfield rifles?—A. They might all have been from Springfield rifles, or all from Winchester rifles, or from others. I do not wish to state for a single instant that I can distinguish between the reports of the different rifles. I do not pretend to do that, sir.

Q. No. Now, when you got over to the barracks there was considerable confusion?—A. Yes, sir. The men were coming downstairs. Some of them were in front of the barracks of C Company, and they appeared to be excited. I could see the men coming downstairs.

Q. Now, right there, what was the cause of the excitement in C Company barracks?—A. I attributed it to the shooting, sir.

Q. Did they tell you anything about being unable to find the non-commissioned officer in charge of quarters?—A. Yes, sir; I think I stated yesterday in my direct examination about that.

Q. Possibly so. I am just asking you about it now.—A. Yes, sir. I asked them the first thing, "Men, why are you coming down without your rifles?" and they said, "We can not find the noncommissioned officer in charge of quarters." The noncommissioned officer in charge of quarters always has the keys to the gun racks.

Q. We understand that.—A. And I said, "If you can not find the noncommissioned officer in charge of quarters, break open the racks. I wish you to come down here as soon as you can, armed."

Q. Now, Major, going back to that, did it occur to you at the time that it was strange they could not find the noncommissioned officer in charge of quarters?—A. Well, yes, sir; it did. I could not understand where he was—where he had been—why he should not have been there.

Q. Did you make an examination to find out where he was?—A. Yes, sir; I made an examination the next morning.

Q. Not that night?—A. No, sir; because I had gone down to B Company, and when I came back to C Company the men were then coming down with their arms, so that I concluded that they had found him.

Q. You did not see Sergeant Brawner, who was in charge of quarters?—A. That night?

Q. Yes.—A. No, sir; I did not see him.

Q. He was the noncommissioned officer in charge of quarters?—A. Yes, sir; he was the noncommissioned officer in charge of quarters.

Q. You did not see him that night, at all?—A. No, sir; I did not see Sergeant Brawner that night.

Q. Now, this high-power shooting that you heard, where did you locate that, Major?—A. As near as I can locate it, it was in rear of B or C Company barracks, over in that direction somewhere; I could not locate it exactly.

Q. About how many parties were engaged in that firing, would you judge?—A. Well, Senator, I could not tell you. Simply as a rough guess only. I would say there might have been 10 or 12; maybe more.

Q. I have a note of your evidence of yesterday. Let us see if it is correct. The first two shots were pistol shots?—A. Yes, sir.

Q. Other shots were high-power guns, undoubtedly?—A. Yes, sir.

Q. Is that correct?—A. Yes, sir.

Q. Your sergeant-major, what was his name?—A. Taliaferro, sir.

Q. He reported to you that night, you said?—A. Yes, sir; he reported to me.

Q. What did he report to you about the shooting?—A. I do not know that I questioned Sergeant Taliaferro that night about the shooting at all, sir. He told me the next morning.

Q. Take the night, if you please. I do not want to cut you off, but let us take the night first.—A. No, sir; I do not know that he reported anything to me about the shooting that night.

Q. You would remember if he had, would you not?—A. I think I should, sir.

Q. If he had reported to you that when he was in the administration building he heard a voice out in the neighborhood of the gate, or in the neighborhood of the barracks, crying out, "I want all of you; I want all of you; I want all of you," that would have made an impression upon you, would it not?—A. I think it would, sir.

Q. No such report was made to you?—A. Not that night, sir, that I can recall.

Q. When, if at all, was the report made to you?—A. It was made the next morning to me. The sergeant-major, when I was examining him the next morning, or possibly in the afternoon, I do not remember which it was, as I examined a good many men, told me that when he was dressing, or just as he was leaving his room in the administration building, he heard some one call out, "I want all of you; I want all of you." And at the same time he said he heard what he was sure was a pistol, which was fired after each one of these calls. I think he repeated it three times.

Q. He told you that he heard a pistol after each one of those three calls?—A. Yes, sir; he thought it was a pistol.

Q. And did he not tell you where it was—did he not locate, did he not give you his idea of what the position was of the man who did this calling?—A. Yes, sir; he said he thought it was over toward the main gate.

Q. That is the gate coming into the fort there at Elizabeth street?—A. From Elizabeth street; yes, sir.

Q. We have got that. And you also found the next morning, did you not, Major, that some of the men claimed to have seen the flashes of guns of parties shooting at or over the barracks?—A. They claimed that they had seen the flashes of guns; yes, sir; and some of them thought that they were fired in the direction of the barracks.

Q. Did those parties who gave you that information attempt to locate the men who were doing the firing?—A. I think that that came to me through the company commanders, sir. I do not think that any of the men I examined made that statement to me. I examined principally on the next day—the 14th—the guards and several of the noncommissioned officers. I do not think that any of the men made that statement to me personally, but it came to me through the investigation that was being made by my orders by the captains.

Q. It came to you as commander of the battalion?—A. Yes, sir; as commanding officer.

Q. From the other officers?—A. Yes, sir.

Q. Major, that night you ordered an inspection of the ammunition, did you not?—A. That night?

Q. The night of the 13th.—A. Yes, sir; of the ammunition and the rifles.

Q. A count of the rifles?—A. Yes, sir.

Q. That is, a verification?—A. A verification of the rifles and ammunition.

Q. And a verification of the number of the men?—A. Yes, sir; I ordered a verification of the men. I ordered a roll call immediately after Doctor Combe came in.

Q. And you also ordered an inspection to be made in the morning of the rifles?—A. As soon as it was daylight—light enough to see.

Q. And, as you have stated, a report was made to you that all the ammunition was there and the men were all there excepting two, who were accounted for, I believe you said?—A. Yes, sir.

Q. The rifles had been inspected and found free from powder?—A. Yes, sir.

Q. All of this was reported to you on the morning of the 14th?—A. Yes, sir.

Q. And notwithstanding all of this, as commander of that battalion and having all these facts before you, you believed that some of the battalion—you did not know—had engaged in this shooting up of the town of Brownsville?—A. Yes, sir. If you will remember, Senator, I gave my reasons for it.

Q. I understand. You have given that on your direct examination, Major. I do not wish to take up the record with that, but I just wanted to get the fact.—A. Yes, sir.

Q. And you sent the telegram which was put in the record on yesterday, and then you made the report of the 15th of August?—A. Yes, sir.

Q. You had continued all day of the 14th, had you not, to investigate?—A. All the 14th; yes, sir.

Q. And also continued on the 15th?—A. On the 15th; yes, sir; and daily.

Q. And if I remember your testimony before the court-martial, upon looking at your carbon copy you found that that report of the 15th was written on the night of the 15th of August?—A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir; that is correct.

Q. So that you had all of this time to get all of the evidence you could, and the reports from all of your officers, and up to that time you were satisfied that some of the men of your battalion were engaged in this shooting up of the town of Brownsville?—A. Yes, sir; I was.

Q. Now, Major, you continued on, as you assured these parties that you would continue, to make all the investigation you could to ascertain the guilty parties, did you not?—A. I did, sir.

Q. From day to day?—A. From day to day, up to the time the men were discharged.

Q. Yes. I find in Senate Document 155, at page 105, a report of yours made to the military secretary of the Department of Texas, dated September 20. You are familiar with that report?—A. Yes, sir. That is the one in which I made certain recommendations, is it not?

Q. Yes.—A. Yes, sir; I am perfectly familiar with it.

Q. I do not care about taking the time to read it all. That was more than a month after the shooting up of the town of Brownsville?—A. Yes, sir; that was more than a month; it was on the 20th.

Q. And you still continued of the opinion that some members of your battalion were connected with the shooting up of the town of Brownsville?—A. I did, sir, at that time. My letter, I think, shows that very plainly, sir.

Q. Yes. There will be no question, I take it from your letter.—A. That is right, sir.

Q. And if I remember correctly, from your testimony of yesterday you remained of that opinion until your court-martial was on?—A. That is right, sir.

Q. And what was the date of the court-martial, so that we may have it in the record?—A. It commenced on February 4, sir.

Q. Did you modify or change your opinion on February 4 of this year?—A. No, sir; not on February 4 of this year.

Q. How late in the proceedings of your court-martial was it before you modified your opinion as to some members of your battalion being connected with this shooting up of the town of Brownsville?—A. I commenced to change my opinion very radically after the close of the prosecution.

Q. From evidence introduced there?—A. From evidence introduced by the prosecution.

Q. Major, in your own way, so that we will have the full benefit of it, what evidence that had been introduced was it that led you to modify or change your opinion?—A. Well, sir, there were very few that could state, to my satisfaction at all events, that they saw any soldiers that night. The distances which they gave—I am speaking of the witnesses generally—

Q. Yes.—A. (Continuing.) That they could see and distinguish the men as being negroes and soldiers, and dressed in uniform, I knew were such that it was absolutely impossible on that night.

Q. Yes. Was there anything else?—A. No, sir; I think that was the principal thing.

Q. What was the date of the close of the prosecution?—A. The prosecution closed on the 23d. I think it was the 23d of March.

Senator SCOTT. That would be Saturday, Major?

The WITNESS. Yes, sir; that is right. It was Saturday that they closed.

By Senator WARNER:

Q. Then up to that time you had not modified nor changed your opinion?—A. Not until the prosecution was closed; no, sir.

Q. I say up until that time?—A. Senator, if I might be permitted, I might change my answer to that.

Q. Certainly.—A. I would say that my mind was undergoing a process of changing all the time, but it became very decisive at the end of the prosecution.

Q. Did you ever make a report, after the report of September 20, 1906, to your superior officers, showing any change in your opinion?—A. No, sir.

Q. Your report of September 20 recommended very drastic measures, did it not?—A. Yes, sir; it did.

Q. You then believed and continued to believe until your mind began to change—A. Yes, sir.

Q. (Continuing.) That those measures should be adopted?—A. I did, sir.

Q. And you were, then, of that opinion when the order for the discharge without honor of these men was issued?—A. I still was, sir.

By Senator SCOTT:

Q. If I may be allowed to interject one question here; Major, have you ever been able, since that shooting, to find out what motive these colored troops could have for shooting up the town?—A. Never, sir. I never could conceive any motive at all for it.

Q. Then if you could not conceive a motive for them shooting up the town, why did you originally form an opinion that they had done it?—A. Because, sir, the shells were brought to me that had been picked up in the streets of Brownsville on the morning of the 14th, and because of the absence of any bullet holes in the barracks.

Senator SCOTT. Yes. I believe that was your testimony of yesterday. That is all. Excuse me, Senator, for interrupting.

By Senator WARNER:

Q. Can you conceive of any motive for the citizens of Brownsville shooting up their own town?—A. No, sir; I can not.

Q. The relations between the soldiers and the citizens had been pleasant, as far as you know?—A. As far as I know there had been no trouble whatever, sir, excepting the Tate-Newton affair, which I think I mentioned, the Adair affair, if you can call that any trouble at all, and the Reid-Baker affair. The Reid-Baker and the Adair affairs I paid no attention to whatever.

Q. They were all with reference to some of these customs officers?—A. With customs officials entirely, sir. If I had thought that there was any feeling at all of any of the men against any of the people of Brownsville, it would have been toward those custom-house officials.

Q. You knew it was discussed very generally in the command that the men were not allowed to drink at the same bars with white men?—A. No, sir; I do not know that it was, of my own knowledge, generally discussed. I knew that separate bars had been arranged for the men, and I asked the captains—I know that I asked Captain Lyon and I am sure that I asked Captain Macklin—how the men took to a thing of that kind, and they replied that it was all right; that they were perfectly satisfied with them, and seemed to be getting along nicely.

Q. In the matter of the questions asked you about the cleaning of guns, I understand you do not say that there was not an opportunity for the men to clean their guns between the time of the firing and the next morning?—A. I do not think I said that. I said it would be extremely difficult to do so.

Q. You would not be understood as saying that they had not an opportunity of doing it?—A. No, sir; I would not say that. As I said before, it was a very, very dark night, and possibly men might have done that thing when an officer was at one flank of the company and they were at the other; but it seems to me rather doubtful, from the reason that the officers were moving constantly back and forth and the noncommissioned officers were there.

Q. But they could have done it in quarters, could they not?—A. After they returned to the quarters?

Q. Yes.—A. I think that is extremely doubtful. Yes; I will say that; they could have done it.

Q. Yes; but in order to get their guns out of the gun racks the noncommissioned officers in charge of quarters would have had to have known something about it?—A. Well, until my trial I did not suppose that it was possible for them to clean a rifle in the rack, but I find that it is. But that would have been extremely hazardous, and I do not think they would have dared to try to do it. By simply taking this bolt out and turning it right over they can clean a portion of the barrel, but at the muzzle they can not clean it. It would show the powder stains there.

Q. That is all right; but that was not the question I asked you. I say that with the collusion of the noncommissioned officers in charge of quarters they could have cleaned their rifles?—A. Yes, sir; I think they could.

Q. And it would have required either the abstraction of the keys from the noncommissioned officers in charge of quarters or the collusion with them of the noncommissioned officers in charge of quarters to have gotten their guns out of the gun racks before the shooting up of the town, would it not?—A. Yes, sir.

Q. So that one is just as probable and possible as the other?—A. One is as possible, and I suppose it is as probable.

Q. You had confidence in your noncommissioned officers, as you have stated?—A. I did, sir.

Q. On the night of August 13, when Mayor Combe stated to you in substance that men of your battalion had done the shooting up of the town of Brownsville, you did not believe it at that time?—A. I did not, sir.

Q. When you said to him "I can not believe it," or words to that effect, "I can not believe it?"—A. Yes, sir.

Q. If you had been of the opinion that you were the next morning, and that you continued to be down to the time of your court-martial, as you have stated, you would not have left those keys to the arm racks in charge of the noncommissioned officers, would you, Major?—A. Probably not, sir. But still, that is a custom—our custom—in the service. It is the practice throughout the service, and has been for years, and I do not know that I should have changed it. I might have sent an officer over there.

Q. It is the practice, of course, to leave the keys in charge of the noncommissioned officer in charge of quarters?—A. In charge of quarters; yes, sir.

Q. There are two sets of keys, one in charge of the quartermaster-sergeant and the other in charge of the noncommissioned officer in charge of quarters?—A. Well, it does not necessarily follow that the extra set is in charge of the quartermaster-sergeant. Sometimes the first sergeant keeps those.

Q. Yes; I was just asking you that question.—A. But the noncommissioned officer in charge of quarters always has the keys. That enables him to get the rifles out if they want them.

Q. I notice in this Senate Document No. 155 a report made by Colonel Roberts, I think.—A. Major Roberts, of the Thirteenth Infantry, sir, I think.

Q. In making an investigation, in that case, that night he ordered the keys taken from the noncommissioned officers and delivered to the officers. Do you remember that case?—A. Yes, sir; I have an indistinct recollection of that case. I think it is in an appendix, is it not?

Q. Yes; it is one of the reports.—A. I think I was mistaken when I told you that he was of the Thirteenth Infantry. That was General Roberts, and I believe he belonged to the Twenty-fifth Infantry at that time. Was that at El Paso?

Q. I would not say as to that. I will turn to that in a minute.—A. My mind is not quite clear on that point.

By Senator OVERMAN:

Q. While Senator Warner is looking for that let me ask you; I understand you to say there are two sets of keys, one kept by the sergeant in charge of quarters, and one kept by whom?—A. It varies in different companies. In some companies the captains have their extra sets kept by the first sergeant, and in others by the company quartermaster-sergeant.

Q. Noncommissioned officers?—A. Yes, sir; noncommissioned officers. They are always in the barracks.

By Senator WARNER:

Q. This report to which I refer is dated February 28, 1900, and commences on page 354 of Senate Document 155. It is addressed to the adjutant-general of the Department of Texas, and I will read the first sentence:

STR: In compliance with the instructions of the department commander, I have to report that I proceeded on the 20th instant to Fort Bliss, Tex., to investigate the recent troubles at that post, returning yesterday.

These troubles and the investigation were at Fort Bliss. What regiment was that, Major?—A. I do not remember, sir. It was in 1902.

Q. This was Company A, of the Twenty-fifth Infantry, I see here. This was in 1900.—A. Yes, sir; I thought it was a company of the Twenty-fifth Infantry.

Q. Captain Loughborough, I believe it was?—A. Yes, sir.

Q. That is the case to which I refer, Major, and this report is signed by C. S. Roberts, lieutenant-colonel Thirteenth Infantry.—A. Yes, sir. I had forgotten what regiment he belonged to at that time.

Q. Mayor Combe you knew quite well?—A. Well, I can hardly say that, sir. I had been there such a short time. I had seen Mayor Combe, however, several times, and I knew him better than I did anybody in Brownsville.

Q. Whatever he said about these citizens collecting, that he had turned back armed citizens, that would not seem to you strange if they believed that the town had been shot up by members of your battalion, would it?—A. No, sir.

Q. It would be very natural?—A. Yes, sir.

Q. The interview that you had with the citizens' committee the next day was a pleasant one?—A. I thought it was very pleasant.

Q. They acted, it seemed, with a good deal of reserve in wanting to find out about the facts of the matter?—A. They wanted to find

out about the facts of the matter; and, yes, sir, I think they did act with a good deal of reserve. They were more or less excited, all of them.

Q. Yes; that would be natural. You were excited also, were you not?—A. I don't know; I did not feel so at the time. I have no recollection of feeling excited. I was extremely anxious.

Q. "Anxious" would be the better word. Colonel Lovering came there to investigate this?—A. No, sir; Major Blocksom.

Q. Yes; Major Blocksom came over there and went over all these things with you?—A. I do not think there was a thing that happened there that we did not talk over.

Q. He was frank and open with you in the matter?—A. Yes, sir; and I was with him.

Q. Yes; certainly.—A. I showed Major Blocksom every telegram that I had sent and every telegram that I had received, even to a confidential message that was sent to me about the removal of the troops. I considered that as he was the assistant inspector-general of the department, and was sent down there to investigate this matter, I was in duty bound to show him everything.

Q. What I meant, without going into the details of it, was that you were frank and open as officer with officer?—A. Absolutely, sir. There was not a thing kept back that I know of. I think Major Blocksom told me everything he did.

Q. Did Major Blocksom go out into town to make an investigation?—A. He was out in the town most of the time. I think he made most of his investigation in the town.

Q. Were you out in town?—A. No, sir.

Q. Did you make any investigation out in the town?—A. No, sir; I did not leave the garrison until we marched out to leave the post.

Q. And Major Blocksom made report to you of the result of his investigations?—A. Everything that Major Blocksom could find out in town I think he told me.

Q. Did he tell you about what houses he found fired into?—A. Yes, sir.

Q. And the nature of the shots?—A. I do not think that at that time, at the time I left, he had examined any of the bullet scars very carefully, but he told me there were bullet marks on various houses, namely, the Cowen house and the Yturria house, and several of them.

Q. The Miller?—A. No, sir; I do not think he mentioned the Miller at that time. It was not found out.

Q. How about the telegraph office?—A. I am not sure about the telegraph office. I think that came out after I left.

Q. But generally—A. Generally, he told me everything. I know several times I asked him to go in town for me to find out what was going on and what was being done.

Q. And he always did?—A. Yes, sir.

Q. Then Colonel Lovering came to Fort Reno?—A. He came to Fort Reno.

Q. And he made an examination?—A. Yes, sir; he made an examination of the men as to, apparently, certain points. I do not know exactly what Colonel Lovering wanted there. He did not tell me.

Q. And General Garlington?—A. He came there, sir.

Q. What was the nature of his examination?—A. I do not know, sir. I was not present when he examined any of the men.

Q. He talked with you, did he not?—A. Oh, yes, he talked to me. It was for the purpose of trying to find out who the men might be, if any.

Q. He talked freely with you?—A. Yes, sir; he talked freely with me.

Q. And you talked freely with Colonel Lovering?—A. With Colonel Lovering?

Q. Yes.—A. Yes, sir; we talked quite freely.

Q. About what you knew?—A. No, sir; Colonel Lovering asked me very few questions about what I knew. He seemed only to want to get this information from the enlisted men. As a matter of fact, he stopped with me, and at meals and at the times when he was not examining these men I think we may have gone into a great many details.

Q. General Garlington talked with you very freely about the matter?—A. He talked with me after the examination. I do not know whether after he examined all the men, or whether it was before that he talked with me about what he had been sent there for.

Q. Well, what was that?—A. He had been sent there under orders of the President, as I understood it, to issue an ultimatum to the men that if they did not disclose the perpetrators of this deed, or some one that knew something about it, the entire battalion would be discharged from the service without honor.

Q. He talked that matter over with you, did he, as to the advisability of such an order?—A. He showed me his letter. No, sir; not as to the advisability at all. He simply showed me the letter, and he said, "That will be the result of this matter."

Q. That was in direct line with your recommendation of September 20, was it not?—A. Well, I did recommend discharges, but not that way, sir.

Q. You recommended the discharge of 20 per cent?—A. Of 20 per cent.

Q. And then another 20 per cent?—A. With an interval of thirty days.

Q. And another 20 per cent with an interval of thirty days, and then another 20 per cent?—A. Until but 20 per cent of the original number remained.

Q. Why would you have kept 20 per cent and discharged 80 per cent?—A. I did that because I felt by doing that we could keep our old noncommissioned officers whom we had absolute confidence in.

Q. That was the only reason for that?—A. That was the only reason, sir. I was just about to say that I thought probably the first 20 per cent of discharges would bring out the culprits if there were any there.

Q. Did you think it strange that they did not reveal to you who the parties were?—A. Yes; I did at that time; that is, many of them. I was perfectly satisfied in my own mind that but very few knew anything about it. My theory was that but very few men were implicated in it, and that very few knew of it outside of the few that were implicated in it. That was only a theory.

Q. You believed, though, did you not, that it was exceedingly difficult to get any information from the men as to the guilty parties,

even from those who might know?—A. No, sir; I thought the old noncommissioned officers and older men, if they knew anything about it, would tell me. I thought it would be almost impossible to get it out of the men who perpetrated the deed, if they did do it, or out of anyone who knew anything about it. The negro nature is very secretive. They can keep things better than anybody else I ever knew, and my experience with these men had led me to believe that they would shut up like a trap, and you would never be able to get it out of them by any fair means, I might say. If you remember my first recommendation, it was to enlist three detectives and place them in these companies and throw off all restraint.

Q. That was your report of September 20?—A. Yes, sir; I thought that was the proper course to take. I thought if these men got out, after being confined to the garrison as long as they had, and should be given all their privileges, possibly under the influence of liquor or something of the kind they might give away something that would give us a clew.

Q. But as long as the pressure was on it was not possible to get anything from them?—A. Yes, sir.

Q. By reason of their secretive nature, you say?—A. Yes, sir; and I thought the situation kept them spurred up to it all the time. There was no relaxation.

Q. You say your experience. What do you mean by that?—A. I mean my experience with negro troops.

Q. How long have you served with negro troops?—A. Since May, 1904.

Q. And that is still your judgment, is it?—A. That they are secretive?

Q. Yes.—A. Yes, sir.

Q. And that even if there were guilty parties in that regiment they could not be detected while this pressure was upon them?—A. I would not think so, sir.

Senator WARNER. That is all I want to ask.

By Senator OVERMAN:

Q. What is your native State?—A. I was born in Michigan.

Q. You have commanded white soldiers?—A. Up to 1904, sir.

Q. Did you notice as a distinguishing characteristic between the white soldier and the colored soldier this secretiveness?—A. Yes, sir; I think the negro is much more secretive than the white man.

Q. Is it not a fact that one colored man will stand up and cover up the crime and offense of his associate, whereas the white man would aid the officer in discovering it? Is not that true, that they have that esprit de corps to a great extent?—A. I do not know that that is so. I think white men are more apt to inform on each other than negroes are—that is, to come up voluntarily and do it.

Q. That is your experience from the two or three years that you commanded them?—A. Two years with that battalion.

Q. You learned of the colored man by only three years' experience?—A. Yes, sir; I had never commanded them before. I had been in the same post with them.

Q. And that is a marked and characteristic distinction between the colored soldier and the white soldier?—A. Yes, sir; I think it is; that the white soldier is more free to come forward with information than the colored soldier is.

By Senator BULKELEY:

Q. Major, you spoke about cleaning a rifle in the rack?—A. Yes, sir.

Q. And did I understand you correctly, that you can not clean it way to the muzzle?—A. No, sir; you can not.

Q. You can not?—A. I mean to clean it clean.

Q. Yes; I mean to clean it clean. You mean to clean it way to the muzzle from the butt of the piece?—A. I have never tried it, but I am pretty sure that you can not do it. If you recall, the wiping rod has a little slot in the end, but it does not come clear to the end.

Q. There is a rod right behind you. Take that and show me.—A. (Taking rod from rack.) Now, this cloth, you see, comes right in there [indicating end of rod], and other rods that I have seen have a little slot in them, and you wind that cloth in there in that way [indicating], and as you push the rod in the rifle that will almost invariably slip back a little. It may not be so in every case. I would not say that.

Q. Can that, being inserted in the breech—A. You mean through the breechblock here [indicating on rifle]?

Q. Yes; the breechblock. With the rifle standing in the rack can that rod be run through so that it will come beyond the muzzle?—A. There is a play of an eighth of an inch there, perhaps [indicating muzzle of rifle standing in rack].

Q. Can they get it out?—A. No, sir; you can not get it out.

Q. So that unless that gun could be cleaned way to the muzzle of the rifle the muzzle would be the most exposed part, would it not, on inspection—the first part that an officer would see in inspecting the bore of the gun?—A. Well, yes; I think it would.

Q. Does he not look into it from that end?—A. Of course he looks into it from the bore always.

Q. And if the muzzle was dirty—A. The supposition would be that it had been fired, or it might be dust.

Q. If the gun had been fired and had been cleaned only so far as it could be by the rod being inserted from the breech and the muzzle was left dirty, the muzzle would be the first part that the officer would see on inspecting the gun, would it not?—A. I think so, sir.

Q. So that it is practically impossible to clean that gun way to the muzzle while in the rack, is it not?—A. I think it is, unless a great deal of pains should be used.

Q. How could they get it through there in the dark?—A. That is another thing. I am talking about daylight now. I do not believe it could be done in the dark.

Q. I am talking about the conditions that night, with those guns in the dark, when those guns were in the racks.—A. No, sir; I don't think it could be, and, another thing, it is almost impossible to detect whether a gun has been fired, at night, even with a good lamp.

Q. Would a man have any way of knowing whether the muzzle of the gun was clean when it stood in the rack there?—A. No, sir; you can not see the muzzle here [indicating gun in rack]. There is only about an eighth of an inch play, and you can not get it out.

Q. That is what I wanted to get. The idea has been that it was possible or probable that a man could clean a gun way to the muzzle, so that when it came to inspection the next morning, if that gun had

been fired it would show clean, way to the muzzle. Now, as I understood you, this cleaning rod inserted here at the breech would not enable a man to clean it way to the muzzle, so that when it came on inspection the dirt would not be in the muzzle of the gun?—A. I do not think so. I have never tried it, but I do not believe you can do it.

Q. Yes.—A. I say I do not think it can be done, Senator.

Senator BULKELEY. Yes; that is all.

By Senator OVERMAN:

Q. Well, Major, if they were cleaned that night it is more probable that the noncommissioned officer in charge of quarters, who had the keys, was in collusion with the men, and that they were taken out and cleaned?—A. Yes, sir; if it was done.

By Senator FORAKER:

Q. In other words, Major, the theory on which you would suppose that the guns were cleaned either in the racks or out of the racks, after they were put in there that night and locked up, is that everybody was in collusion with the men who did the cleaning?—A. I think they would have had to have been.

Q. Do you think it is at all probable now, knowing what you do about your noncommissioned officers?—A. No, sir; I do not. I do not think so.

Q. You have no idea there is any truth in any such suggestion as that?—A. No, sir.

By Senator OVERMAN:

Q. Do you mean that everybody was in collusion? You do not mean that?—A. I mean that everybody would have had to be in collusion.

Q. Everybody? You do not mean that you would have had to be in collusion?—A. No, sir; I mean in the barracks.

Q. In the barracks?—A. In the barracks of the one company.

Q. I did not want that to be left in that way, that you said everybody.—A. Of course, I did not mean that.

By Senator FORAKER:

Q. Assuming that you tried to clean that gun while in the rack by inserting the cleaning rod with the rag fixed on it in the way you have indicated, at the breech, and pushing it up to the muzzle, you would have to withdraw it, would you not, when you got done swabbing up and down?—A. Yes, sir.

Q. And would there be any trouble, when you reversed the rod, about the rag? Would not that become reversed?—A. No, sir; not often.

Q. You would not have to push it clear through the muzzle to reverse the rag?—A. No, sir. Usually it is just a small patch that is put over the end of the rod—a little thing an inch and a half square, maybe.

Q. In the slot?—A. No, sir; there is no slot on this rod. But you take just a very small piece, and it is put on that way [indicating with handkerchief], and run into the muzzle of the gun in that way.

Q. And you push that up and down?—A. Yes, sir. Sometimes it comes off, and you have got to put it on again.

Q. Major, you spoke about this characteristic of the colored soldiers, of secretiveness. Do you mean to have us understand that they were so secretive that in a case like this the noncommissioned officers and old soldiers of the character you have described would commit perjury?—A. No, sir; I did not mean that at all. I think Senator Warner understood me about that. I did not mean that.

Q. I only wanted to make it clear that you did not. You think that when they were asked about it, especially under oath, they would tell the truth?—A. I think they would.

Q. You think that they have told the truth about this all the way through, do you not?—A. Well, I think they have, sir.

Senator FORAKER. That is all.

By Senator WARNER:

Q. They had all been examined under oath, had they not, that is, your noncommissioned officers, prior to your report of September 20?—A. Senator, I do not know. We took those statements in the shape of affidavits, and they were all in form before we left Fort Brown. Some of them were sworn to while we were at Fort Brown, and others after we got to Fort Reno. Now, whether that was all completed before the 20th I do not know, sir.

Q. But it had all been completed, certainly before General Garlington came there and issued his ultimatum?—A. Yes, sir; I had the affidavit of every man at that time, I think, in my possession. I know that I had.

Q. And you had not changed your mind at that time?—A. No, sir.

Q. About this cleaning, is the cleaning rod longer than the barrel of the gun?—A. I do not know, sir. May I try it and see?

Q. Certainly.—A. (After examining cleaning rod.) This is a new rifle to me, and the cleaning rods are all new since I became a field officer, and a field officer does not have as much to do with it as a captain.

Q. I do not care about bothering you with that.—A. I do not think it is longer, sir. A captain could give you that information readily, sir.

Q. Yes, of course. Do you know whether the commander of each squad has a cleaning set? He does, does he not, the rags and a rod?—A. No, sir; not the commander of the squad, but of the section.

Q. I did not mean a squad. A section would be the subdivision of the command?—A. Yes, sir.

By Senator OVERMAN:

Q. Sometimes a man would have his own cleaning rod, made of wire, would he not?—A. They might have, Senator. I do not know that I have ever seen one.

By Senator BULKELEY:

Q. You were in the habit of receiving official communications by letter and by wire, were you not?—A. Pardon me; I did not understand you.

Q. Were you in the habit of receiving orders and communications from the Government by mail and by wire?—A. Both; yes, sir.

Q. Did you ever have reason to think that either one of them were intercepted and known before they reached you?—A. I did—the wires.

Q. Will you tell us about that?—A. The first matter that came up, Major Blocksom came into the post, and I have forgotten now what this telegram was, because we were getting a great many at that time, but he said: "Look here, Penrose, have you told anybody about this telegram?" And I said: "No; I have not said a word to anybody, of course." He said: "Well, there is a leak in this office, then, because this thing is in town, and I have not had this telegram over an hour, and they know it in town." I said of course I had not spoken of it. Then when I received this confidential message, which you will find in Senate Document 155, directing me to take these men who were charged with this crime to Fort Sam Houston, certainly inside of a half an hour Captain McDonald, of the Texas Rangers, sent a demand to me for the prisoners. Now, I had not had that confidential telegram certainly over a half an hour when I received this demand from him to turn over the prisoners. That made me think there was a leak in that office, because nobody had seen that telegram at that time at all. I later showed it to Major Blocksom, and in the afternoon I showed it to Judge Stanley Welch, to whom I had given my promise that these men should not be removed except upon his order.

Q. Do you know of any other instance?—A. I do not recollect any other.

Q. Was that the telegram of August 24 in regard to the movement of the troops?—A. No, sir; it was in regard to the movement of the prisoners. Yes; on the 24th. That is right; it was the 24th.

Q. See if that is the telegram you refer to, on page 100 of Senate Document No. 155 [handing book to witness].—A. (After examination of telegram.) Yes, sir; that is the one.

By Senator SCOTT:

Q. What is the date of it?—A. August 24.

By Senator BULKELEY:

Q. This is addressed to the commanding officer, Fort Brown, Tex., and is signed "Ainsworth, Military Secretary." So that it is your impression and belief that that telegram was intercepted before it was delivered to you?—A. I think it was. I can not see how it would be otherwise, because when I confined these prisoners, at the request of this man McDonald, Mr. Kleiber, the district attorney for the twenty-eighth judicial district of Texas, was present, and I told him as representing Judge Welch, that I would confine these men and that I would not permit them to be removed under any circumstances, excepting upon an order from Judge Welch. He understood that perfectly, and so did Captain McDonald. I was therefore very much surprised when I got this order from him demanding that these prisoners be turned over to him. I could not help but think that he got the contents of this telegram, this coming so soon after my receiving it.

Q. Do you know of any other instance?—A. No, sir; only that,

and the one Major Blocksom called my attention to; and I have forgotten what telegram that was.

Q. Major Blocksom called your attention to another one?—A. Yes, sir; as I said a while ago.

Q. I did not know but what it was the same one?—A. No, sir; that was one of a day or two before.

Senator BULKELEY. That is all.

By Senator WARNER:

Q. The only reason that led you to believe that there was "a leak," as it is expressed, in the telegraph office, was the fact of Captain McDonald making the demand that these prisoners be turned over to him?—A. No, sir; as I said before, Major Blocksom asked me about the telegram.

Q. That is the telegram I am speaking of now?—A. This telegram?

Q. Yes.—A. No, sir; that was in connection with a telegram of Major Blocksom, too. Major Blocksom received a telegram and showed it to me, and then he went out in town, and he was not gone long when he came back and he said, "Penrose, have you told anybody about this telegram?" and I said "No, of course I have not," and he said, "That is mighty funny; there must be a leak; they know about it down in town."

Q. What telegram was that?—A. I do not know, Senator. We were receiving four or five or six or seven every day, and I could not tell you what one it was.

Q. I do not care about that.—A. But that was several days before this confidential message of the 24th was received.

Q. There is a question that I ought to have asked you before. Captain Macklin brought those shells and clips to you the morning of August 14. Without going into the details, did he tell you where he had found those?—A. Yes, sir; he said right at the mouth of the alley.

Q. Did he tell you how they were located?—A. Not then. I do not recollect that he told me at that time. He might.

Q. When did he ever tell you?—A. I think maybe it was the next morning.

Q. You had that information?—A. That is not at all clear in my mind, Senator, when he told me. It might have been that night or the next morning, or two or three days afterwards.

Q. Did you make an examination of those cartridges?—A. I looked at two of them. I just took two of them from his hand.

Q. What examination did you make?—A. I just looked at them. They were Frankford Arsenal cartridges, marked "F. A.," and the date of them was 1906.

Q. Did you look at these cartridges to see if they had been recently exploded?—A. They looked as if they had been. I did not examine them very critically, but they looked to me as if they had been recent. They were bright—had no stains on them.

Q. That showed that they had been recently exploded, from your experience?—A. Yes, sir.

Q. That was your opinion then?—A. Yes, sir.

Q. That they were Springfield cartridges?—A. Yes, sir; I thought they were. They were marked "Frankford Arsenal." If I had

known all this was coming, of course I would have made a much more careful examination of them than I did.

Q. But you had no question then; you thought they were Springfield cartridges?—A. Yes, sir; at that time I did.

By Senator FORAKER:

Q. But as a matter of fact you did not make any special examination of them with that in view?—A. Not at all, sir. I just took them in my hand and looked at them and turned them up and looked at the base, where they were marked. That was the examination I made of them.

By Senator PETTUS:

Q. Major, you spoke of some shells which you received from the captain whom you sent out into town the morning after the shooting.—A. Yes, sir.

Q. Found at the mouth of that alley, or where the alley runs to the wall of the fort, somewhere in that neighborhood.—A. Yes, sir.

Q. Where did you place them? You took them in your possession, as I understand.—A. No, sir; I did not take them in my possession at all. I just handed the shells back to Captain Macklin—the two that I took from him. He had the clips in his right hand and the shells in the other. I just simply looked at the clips and the two shells I took from his hand and examined the base.

Q. And you did not have possession of them at all except in that way?—A. No, sir; I have not seen them since.

Q. You do not know what became of them?—A. Yes, sir; I know from what Captain Macklin told me. He put them in his desk, the company desk, I think it was, and that was forwarded, I presume, to San Antonio, to Fort Sam Houston, when Fort Brown was abandoned.

Q. He put them in his desk?—A. Yes, sir.

Q. And that is the last you heard of them?—A. That is the last, yes, sir, that I know anything about them at all.

Senator PETTUS. I did not remember that Captain Macklin was examined about that.

Senator FORAKER. Yes; he was.

**TESTIMONY OF SECOND LIEUT. ROBERT PATTISON HARBOLD,
U. S. ARMY.**

Second Lieut. ROBERT PATTISON HARBOLD, U. S. Army, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Please state your name in full.—A. Robert Pattison Harbold.

Q. Are you in the United States Army?—A. I am.

Q. To what command do you belong and what rank have you?—A. Second lieutenant, Twenty-fifth Infantry.

Q. How long have you been in the Army?—A. I entered the United States Military Academy on June 19, 1900.

Q. Where were you assigned?—A. To the Twenty-fifth Infantry.

Q. When?—A. On June 15, 1904.

Q. With what company?—A. I was first assigned to Company L, Twenty-fifth Infantry.

Q. Where was it stationed at that time?—A. At Fort Niobrara, Nebr.

Q. How long did you remain with Company L?—A. I remained with them about one year.

Q. All the while at Fort Niobrara?—A. Yes, sir.

Q. To what company were you then transferred?—A. I was then transferred to Company K, Twenty-fifth Infantry.

Q. And are you with that company now?—A. I was with the company until April 1, 1907. I was then made battalion quartermaster and commissary.

Q. April 1, 1907?—A. Yes, sir.

Q. That was just two or three days ago?—A. Yes, sir.

Q. You remained with Company K then as second lieutenant until the 1st of April, 1907?—A. Yes, sir.

Q. Where did Company K go when the regiment left Fort Niobrara?—A. Company K went with the Third Battalion, Twenty-fifth Infantry, to Fort McIntosh, Tex.

Q. Have you been stationed there ever since?—A. No, sir; I remained back at Fort Niobrara in charge of a detachment of 22 men to prepare that post for abandonment and did not report to McIntosh until October 22, 1906.

Q. Since October 22, 1906, have you been with your command at Fort McIntosh until you left to come here?—A. Yes, sir.

Q. You testified before the court-martial at Fort Sam Houston?—A. Yes, sir.

Q. Did you return to your command after you testified there?—A. Yes, sir; I returned to Fort McIntosh.

Q. You returned to Fort McIntosh and you were subpoenaed there and came here, were you?—A. Yes, sir.

Q. Lieutenant, tell us whether or not you ever witnessed any experiments recently made at Fort McIntosh with a view to determining the powers of vision in the nighttime as to detecting men who were firing such arms as you were equipped with?—A. Yes, sir; on the night of February 18-19 of this year we made our first experiment at Fort McIntosh to get visual tests, and on the night of March 11 we made another experiment.

Q. Now go back and tell us about the first experiments, taking them up in their chronological order.—A. In the first experiment, we began the experiment about half past 9 in the evening.

Q. What kind of a night was it?—A. It was a bright moonlight night, the moon being about two hours high—that is, about two hours from down. The light was sufficient so that I could take a typewritten letter and study out the words and make out the letter. The experiment consisted in having a squad of men, of about 10, I think, placed in an arroyo so that they would be about 22 feet below us, and at different points ranging from 200 feet as the maximum to 15 feet as the minimum on the horizontal from us. The composition of this squad was unknown to me at the time, as Lieutenant Wiegenstein of the Twenty-fifth Infantry arranged the squad and the details of the firing.

At the first firing we were in rear of the men and above them at about 200 feet I should say, in rear. At this distance the men could not be distinguished. The only thing that we could see would

be a line, indicating that the men were there. It was impossible to tell in which direction the men were facing, and only when they fired could we determine this, as by the flash we could tell that the men were behind the flash, and then there would be firing away from us by them. The light of the flash was not sufficient to determine anything at all. The flash was instantaneous. Although we were trying to concentrate our eyes on the men and looked for features, the flash would draw the eye away involuntarily, and as it was instantaneous, nothing whatever could be seen; nothing of the rifle could be seen, and the articles of dress could not be distinguished. As far as complexion was concerned, why nothing could be seen. Even the face could not be made out.

Q. Could you tell what kind of hats they had on?—A. Not at that distance.

Q. Whether black or gray?—A. No, sir; we could not.

Q. Could you tell whether they had hat cords around their hats?—A. No, sir; we could not. I would not have been able to tell whether the men had hats on or not at that distance.

Q. That is 200 feet away?—A. Yes, sir; approximately 200 feet, as far as I know, although the distance was actually measured, and Lieutenant Wiegenstein has the actual measurements of the positions.

Q. Let me ask you there, Lieutenant Wiegenstein is still ill, is he?—A. Yes, sir.

Q. Is he here in this city?—A. Yes, sir; he is in the general hospital.

Q. Do you think we can expect him to be able to testify tomorrow?—A. I think so, sir.

Q. Proceed then. That was the first firing, about 200 feet away from you?—A. Yes, sir.

Q. And 22 or 23 feet below you?—A. Yes, sir.

Q. Where did they fire again, if at all?—A. Then we changed our position and went around the head of the arroyo, so that we got directly opposite and on the flank of the squad. They were then, I should say, about 50 feet from us—that is, we were 50 feet on their flank. The results there were the same, although the line of men could be made out a little better than previously, but features and articles of dress could not be recognized or distinguished. The complexions it was absolutely impossible to tell, whether the men were white or black, although we presumed that all the men were negro soldiers.

Q. How many men were present with you observing this experiment as you were?—A. At this time Major O'Neil, of the Thirtieth Infantry, was there; Lieutenant Blyth, of the Twenty-fifth Infantry, was there, and a civilian by the name of Stucke, a civil engineer up at Laredo, Tex.

Q. Was Lieutenant Elser there?—A. Lieutenant Elser was not at the first experiment.

Q. Very well, I only want to get how many.—A. Yes, sir.

Q. You have told us what your experience was as to making observations. Do you know whether or not all the others who were present with you as observers had the same experience?—A. From what they said, they did; they all had identically the same experience.

Q. Did anyone claim to be able to recognize any individual—to

tell whether he was white or black or Mexican?—A. No, sir; not at this time; we could not tell anything about them.

Q. Did anyone claim to be able to recognize what kind of hats they had on, and whether they had hat cords on?—A. No, sir; not in this position; but I should like to state that from this position the men were then filed over through a hogback in the arroyo and got directly underneath us, so that the man on the left flank, which was toward us, was not more than 5 feet away from us on the horizontal, although we were about 22 feet above him. In this position we could distinguish light from dark clothing, and hats could be distinguished; that is, we could tell that the men had some head gear on, although whether it was a campaign hat, a sombrero, or any of the soft hats that are common in that community we could not tell. There was an officer with the command. We could distinguish him by the flash of his saber, and I presumed that it was Lieutenant Wiegenstein, because he had arranged the battalion and had taken his squad out. When the men were firing the results were practically the same. The flash of the rifle was not sufficient and of not long enough duration to obtain any view of the men.

Q. Is your vision normal?—A. My vision is normal and I think it is rather acute.

Q. Well, now, was there any further firing or any further opportunity to observe on that experiment?—A. Well, this firing began at half past 9, and as the moon was up we wished to test it with no moon.

Q. Let me ask you before I forget about it, was there any attempt to count the shots that were fired?—A. Well, we tried to estimate, as the firing was first by volley and then at will, and we estimated the number of shots. I estimated that about 40 shots had been fired. Later on Lieutenant Wiegenstein, who had actual count of the cartridges, told me, I think, that there were eighty-some shots fired.

Now, another part of the test that we made at this first experiment, the men were then marched out of the arroyo and came up and above and alongside by us. I stationed myself on one side of them and Lieutenant Blyth on the other, and the moon was shining directly on the men, over my shoulder, and when they went by I was about 5 feet from the men. I studied them carefully, looked at them intently, and there were two men who I thought were men of my company, who were I presumed mulattoes, but I thought they were men of my company and called them by name. All the others I thought were negro soldiers, and when the men went by Lieutenant Blyth said that he would like to have some white men go by, so as to get the difference or the distinction in the complexions in that light. Major O'Neil then said that there were some white men in the detachment. The men were then halted when they got by and faced outward, and we walked along the line and studied the men carefully, looked at them intently, got face to face. The man at the rear of the company, who I thought was a mulatto, I found was an Italian, an assistant blacksmith at the post. He is rather pale, and does not have the bronzed, ruddy complexion of the white people in that community. The man at the head of the company that I thought was another mulatto in my company, I found him to be a Mexican, whom I picked out when I got right up on him; recognized

him by the mustache that he had. He was a driver in the quartermaster's department, and I was in contact with him daily and knew him very well by sight. I missed, in the middle of the detachment, the white man that was there. This white man is an ex-soldier of the Twenty-sixth Infantry, a man by the name of Bradbury, employed by the quartermaster's department as a driver. He is a very good specimen of the white men in that community, bronzed and ruddy, and undoubtedly he would not be mistaken for a mulatto or a Mexican. I walked by him and did not find him until one of the officers told me that there was a white man there, and then I went back and looked at each man as closely as possible, and then I found this man and called him by name. I said, "This is Bradbury."

Q. And that was a moonlight night?—A. Yes, sir; that was a moonlight night.

Q. Did that end the experiment for that night?—A. That ended it for that time. Then we waited until the moon had gone down, and about 1 o'clock in the morning we made some experiments without the moon. We then found that the flash of the rifles was a little greater, that they lighted up better, but the duration was not long enough to obtain any view of the features or complexions. All that I could get by the flash of the rifles at this time was that I could see the hips of the men—the legs. I could not see above that; saw nothing of the rifle whatever, and I could not see below the knees.

By Senator OVERMAN:

Q. How close were you then?—A. At this time we had the same experiment at about 50 feet, and then the men came over and the nearest man was about 5 feet away on the horizontal, although at all times they were 22 feet below us in the arroyo. This arroyo was not in the shadow at the first experiment. The moon was in prolongation of the arroyo and shone right down through it, so that the men were well lighted up by the moon, and were not in shadow, although when they were moving around down there they would get in the shadow sometimes, and we had a good illustration of the effect of the moonlight and the shadow on the men. While they were in the shadow it was absolutely impossible to see anything.

By Senator FORAKER:

Q. Give me the distances, please, again of this last experiment, the second time you went up, when the moon had gone down.—A. The distances, as I estimated them, were 50 feet and 5 feet on the horizontal. In the first experiment I estimated the distance at 200 feet, the maximum distance, although these distances have been actually measured.

Q. Lieutenant Wiegenstein has the distances actually measured?—A. Yes, sir; he has a plat of the whole thing. He measured the distances accurately with a steel tape.

Q. When the guns were fired, could you tell from the flash what kind of hats the men wore?—A. No, sir; I could not say.

Q. Could you tell whether they had cords on them?—A. I could not see above the waist lines of the men.

Q. Could you tell what kind of guns they had?—A. No, sir; I could see nothing whatever of the guns.

Q. Then of course you could not tell whether the barrel of the gun was exposed or whether it was covered with wood?—A. No, sir; I could not.

Q. The barrel of the Krag-Jørgensen is a good deal more exposed than the barrel of the Springfield?—A. Yes, sir; the Springfield has a hand guard which covers it entirely.

Q. You could not tell, of course, then, whether a man who was firing had freckles on his face?—A. No, sir; it would be absolutely impossible.

Q. No matter how close he might be?—A. Yes, sir.

Q. That is, I mean no matter whether he was at a distance of 50 feet for a distance of 5 feet.—A. On a night like that you could not tell.

By Senator OVERMAN:

Q. No matter whether a lamp was shining in his face or not?—A. In our second experiment we had a different light.

Senator OVERMAN. Go ahead, then.

By Senator FORAKER:

Q. Are you through now with the first night's experiments?—A. Yes, sir; that was the extent of that.

Q. Now pass to the second night's experiment. That, you say, was in March?—A. On the 11th of March.

Q. The first was when?—A. The first was the night of February 18–19.

Q. Have you given me the experiments for February 19?—A. That was at 1 o'clock in the morning and brought them into the 19th.

Senator SCOTT. After the moon went down?

By Senator FORAKER:

Q. Oh, yes. Well, now, come to the next experiment, on March 11.—A. On March 11 we made a similar experiment, and we chose that night because we had a bright starlight night with no moon. The stars were very clear—no clouds whatever in the sky. The same arroyo was taken, so that we could get above the men and be safe from the fire. In all these experiments I wish to state that we used the ball ammunition.

Q. Now, in this second experiment, or on the night of March 11, what happened?—A. In this experiment on the night of March 11 the results were the same throughout—that is, the flash was no brighter, we could see nothing more, and when the men were down in position we could not recognize anything more than just the line. We could see this black line extending away from us, and of course, knowing what we were there for, we knew that there were soldiers down there.

In the second experiment there was one gun which was fired several times, which left a very long-lasting light and lighted up things much more than the other rifles. I thought it was a high-pressure rifle using black powder, and the other officers there with me made the same remark, that they thought it was a rifle using black powder. As far as the reports were concerned, they were similar. I could detect no difference, but every time this gun was fired we could detect men, although we could not pick them out. There was *one man* who I said was Lieutenant Wiegenstein. I said: "That

is Lieutenant Wiegenstein," because the man had light-colored clothes on and had an officer's cap. The other men were all dressed in dark shirts and light trousers. We asked to have this rifle fired alone, and they fired it alone, and I am sure if there had been more than one rifle, firing irregularly, we could have been able to pick out the men when they were directly underneath us and about 5 feet from us—that is, the end man 5 feet from us—but with just the one rifle the flash would die away before we could study the man enough to pick him out.

After the men came out of the arroyo we went over in one of the officer's quarters and went to a second-story window, and the men came down on the line in front and walked around there in irregular formation. They were about 15 feet from us.

Q. Were they passing in review before you?—A. Yes, sir; they were walking right in front of us on the line, in irregular formation.

Q. So as to give you further opportunity for observation?—A. Yes, sir; further opportunity, but we could not pick out any of the men, although we could tell the difference between light and dark clothing. They had their rifles—presumably rifles—at this time. They were carrying something. From thence we went to the front window.

By Senator WARNER:

Q. Will you state again the number of feet the men were marching from you?—A. They were about 15 feet on a horizontal. We were in a second-story window looking down at them. Then we went to the window in front of the house and the men passed down the road about 25 feet from the window—that is, on the horizontal—and about 10 or 15 feet beyond this there was a street light burning brightly, so they passed between us and the light. We could not pick out any of the men. They all looked alike. We could detect no difference in complexion, and, in fact, we could detect no complexion at all. We did not know whether the men were white or black.

By Senator OVERMAN:

Q. How close was that street lamp when you observed them?—A. Why, the men were about 25 feet from the window, and I think the street light was from 10 to 15 feet beyond that. They were between us and the street light. The distances as I state them are estimated, although they have been measured. I did not measure them, but they have been measured, and will be brought out, I think, by other witnesses.

Q. The men were within the light of the street light?—A. Yes, sir; they were right between us and the street light, so that it was very light there. It was what is known as a post street light.

By Senator SCOTT:

Q. And you were doing all you could to see if you could observe who any of them were?—A. Yes, sir; we were there for that particular purpose, and we concentrated all our faculties right on that and studied each man as long and as carefully as we could before he would get out of our view. We went down on the porch and sat there, and the men came up the cement walk about six paces, or

approximately 18 feet, from us, the maximum, and walked by us there, and I could not detect or tell one man from another by the complexion.

Q. Was this street lamp still opposite to you?—A. Yes, sir.

Q. They were passing between you and the lamp?—A. Yes, sir; they were passing between us and the lamp. They were then closer to us and farther away from the street lamp, although it was on the far side of them. They went by, and they then went out on the parade ground, and when they got on the other side of the street lamp the other officers that were there could not see them. I picked the men out by getting a dark object passing across the street lamp on the far side of the parade—about 200 yards—and I pointed them out, and after a while they got their eyes on them and could just barely make them out. At this time they were about 100 feet from us. They halted out on the parade ground, and we went out to examine the men. I went along the line carefully. I could not tell any of the men at all until I got right up and looked into their faces, and then I picked out some of the men that were in my company, and I called them by name. The man who was dressed in khaki and with the officer's cap, it was impossible to tell who he was. I turned him around and looked at him—

Q. That is the man that you thought was Lieutenant Wiegenstein?—A. I thought he was Lieutenant Wiegenstein. I turned him around and looked at him, and then I knew it was not Lieutenant Wiegenstein, but I did not know who he was, and I thought after studying him for a while that it was the surgeon on the post, Doctor Brown, but I did not know for certain whether it was. Finally I turned him around again and got a bright light on his face, and then I recognized him and said, "This is Sergeant Stone," a man whom I knew very well. He is a mulatto, not extraordinarily light, but the ordinary mulatto, a man whom I had seen every day and whom I knew by sight very well. Then I heard one of the officers say, "Why, here is Lieutenant Weigenstein," and I went down the line again and I found him. I had missed him entirely, had gone along and looked at him and did not recognize him. There was Lieutenant Wiegenstein, dressed the same as the soldiers, and he had been in all the experiments, had gone by on the walk when they had gone by, and none of us had detected him. It was only by getting up there and turning him around to the light and looking at him intently that we could tell him—pick him out.

Q. You spoke about one of those guns appearing to use black powder. Did you find out about that gun, what kind of a gun it was?—A. Yes, sir; I inquired about it and found it was a shotgun using Hazard black powder.

Q. Not one of the rifles at all?—A. No, sir; it was not a rifle.

Q. That was the only gun that gave enough flash to enable you to detect anything by it?—A. Yes, sir; the flash was similar to that following a skyrocket; the powder that burns after the rocket leaves.

Q. Are those all the experiments you made? Was that the last one?—A. That was the extent of our official experiments.

Q. Tell what other experiments, if any, you made or saw made.—

A. I made experiments with the Krag-Jørgensen rifle, the Springfield rifle, and the Winchester .30-40 rifle, to get the penetration and the deflection of the different bullets from those rifles.

Q. Let me ask you what you mean by a .30-40 Winchester?—A. The Winchester .30-40 is .30 caliber, and the 40 refers to the chamber, meaning that the chamber is longer than the .30-30. The .30-40 is the Winchester rifle that will shoot the Krag-Jørgensen ammunition. The .30-30 will not shoot it.

Q. Does that refer to the number of grains of powder in the cartridge?—A. Not that one. The Winchester .30-220, which shoots our Springfield ammunition, means a Winchester with thirty one-hundredths of an inch caliber and 220 grains of powder.

Q. A 220-grain bullet, you mean?—A. No, sir; powder of 220 grains.

Q. The official instructions issued by the War Department show that the bullet of the Springfield and the bullet of the Krag weigh 220 grains, and that the powder is 42 or 43 grains. I call your attention to that.—A. Yes, sir; I recall that. That is right.

Q. It has reference then to the bullet?—A. Yes, sir; it has reference to the bullet, it is called .30-220. That means that the bullet is thirty one-hundredths of an inch in diameter and that it weighs 220 grains.

Q. When was it and where was it you made this experiment, and how came you to make this experiment?—A. The dates of these experiments were on the boxes which had the exhibits before the court-martial. Those exhibits have been taken from me, and I do not have them, but I made the experiments at Fort McIntosh. I also went out to a small place near there, about 5 miles from there, a place called Nye, where I could get longer ranges. I made my experiments there at about 200 yards.

Q. What did these experiments consist of? First, who participated with you in making them?—A. At the post Lieutenant Blyth and Lieutenant Wiegenstein assisted me. My experiments at Nye were conducted by myself.

Q. Proceed and tell us about them.—A. At Fort McIntosh our experiments were made by arranging targets first, and firing into those targets, beginning at 200 yards and coming down to 40 feet; at 200 and 100 and 50 yards, and then at 80 feet and 40 feet. In these experiments we found that it was a general rule that all bullets were deflected after passing through the first material. The rule of deflection could not be determined. It was irregular, as one time it would be deflected to the right, another time would be deflected to the left, and then one would be deflected upward, and another deflected downward. We could not get a general rule as to the direction of deflection; but the only general rule we could get was that the bullets would be deflected. We could not obtain the penetration of the bullets in wood, as at no time could we capture a bullet in our wooden targets. We could put a box of sand behind the target and get the bullets, but we had an actual penetration of 18 inches of wood, and the bullet passed on through. This was at 40 feet. This wood consisted of 4 inches of ordinary red pine, and then we had back of this as a back stop a 2-inch henlock plank, and the interior targets were 1 inch of white pine, about 8 inches apart; but the deflection was always so great in those cases that it was very seldom we could get our bullets to travel through the entire length of the target.

Q. What was the area of that target?—A. About 12 inches in

width, and they were placed in line, and the firer of course was in direct line.

Q. How high were they?—A. They were about $5\frac{1}{2}$ feet high, and we fired low, so that we would have a very good target in the vertical, although in the horizontal it was only about 10 inches.

Q. I do not know whether I understand that exactly. Assuming that this target is $5\frac{1}{2}$ feet high, that is what you mean?—A. We would fire low into the target. That is, we would not fire up at the top. We would make our bull's-eye down low. We would have to change it, but we got it low.

Q. How high from the ground?—A. We put it from 8 inches up to about $3\frac{1}{2}$ feet.

Q. You experimented at all those different points?—A. Yes, sir.

Q. What was the result of the deflection? How much was the deflection? First let me ask you, assuming that this is the first target, do I understand that there was another target right behind it?—A. Yes, sir; there was another target right behind it, and so on.

Q. And so on back?—A. Yes, sir.

Q. How many did you have there?—A. We were changing them constantly, and at one time we had 18 inches of actual wood to be penetrated.

Q. That would be quite a number of those different targets?—A. Yes, sir. I would like to state that we made another target alongside of that. The first target I am describing now was of oil boxes, such as we have at the post, and our second target consisted of 1-inch red pine. Two pieces were taken, about 8 inches apart. Then 12 feet in rear of that we put two more pieces 8 inches apart, and then 12 feet in rear of that two more pieces 8 inches apart. This was to give us, as nearly as we could get at it, the walls of a house with two rooms, and the deflections in the red pine were just the same as in the white-pine oil boxes.

Q. Describe the deflections. Give us the extent to which they occurred.—A. Well, taking the second target of red pine, two boards placed then 12 feet in the rear, and then two more, one illustration was a triangle. The shots were fired so that the three bullet holes on the first board were about an inch apart—that is, they formed the two legs of a triangle in that way, about an inch apart. On the second board, or the second partition, which would be the wall of the second room, they had changed very much and had gone from 8 to 6 inches apart. Then on the third one of the bullets had left the target entirely, and the other two were about 12 inches apart. Notes were taken of all these things, I should like to state, and the triangles were measured, and Lieutenant Blyth has those notes in his possession. Then there was another experiment made there in which the deflection was about 8 feet to the left in a distance of 30 feet on the ground, and this was actually measured and taken with a steel tape and notes recorded.

Q. Do you mean that the bullet struck the ground?—A. I mean that it struck the target and was deflected to the left, and it struck the ground over there, and the point where it struck the ground was marked. Then, of course, we plotted the triangle and got the deflection to the left and the distance to the ground.

Q. Was it fired squarely at the target?—A. All the shots were fired squarely at the target.

Q. And if it was not deflected it ought to have gone straight through?—A. Yes, sir; if it had not been deflected it should have gone straight through.

Q. But it was deflected so much that at a distance of 30 feet—A. At a distance of 40 feet. We fired at a distance of 40 feet from the first target, but within 30 feet it had gone to the left about 8 or 9 feet.

Q. I mean 30 feet from where it struck the target it deflected 8 or 9 feet?—A. Yes, sir.

Q. And struck the ground?—A. Yes, sir.

Q. I will ask you whether or not all your experiments show practically the same kind of results as to deflection?—A. Yes, sir; every experiment did.

Q. How about going downward when they would strike or upward?—A. We had a number of illustrations where the bullets would go up or down in the trajectory.

Q. The same bullet?—A. Yes, sir; the same bullet. I would like to describe to you one illustration that we had. Some of the bullets were fired between two oil boxes, so that we could hit the cracks between them, and it struck between and then went down in the board underneath. Instead of going through that board it just burrowed and kept right along the board for about 6 inches. Then it came up and entered the board of the top oil box, kept along that board for about 6 inches; then it went down again, and just described that wavy motion right along between the oil boxes.

Q. Up and down?—A. Up and down; just a wavy motion, striking first one and then the other.

Q. Plowing a furrow first in one box and then in the other?—A. There was no furrow. It would go in and keep in that inch board for about 6 inches, and then go into the other inch board and keep in that. Then we had another one where that same course was described, and then on one oil box it went along the wood and made an arc of about 90° to the left and left a complete furrow that looked like a quadrant right on the box.

Q. How big was that arc?—A. It was a quadrant, 90° , approximately.

Q. State whether or not in any of these experiments you found a bullet to have turned around when it struck into the partitions or boards.—A. Yes, sir; there was.

Q. Butt end uppermost?—A. There was one bullet that we extracted in which the base was stuck in the box, and the point of the bullet was pointed toward the firing point, but this bullet had gone through several thicknesses of wood—that is, through several oil boxes, and then struck the sand in rear and turned completely round, and the base buried itself in the far side of the box.

Q. But you did find it sticking into the wood?—A. Yes, sir; sticking into the wood.

Q. So that the bullet in its flight had gone through all these partitions or boxes, whatever they were, all these obstructions?—A. Yes, sir.

Q. And had turned clear around?—A. Yes, sir. And I should like to state that in following the trajectory through our different targets, oftentimes the first target would show a complete penetration.

Then the bullet would turn, it would tumble, and the bullet would probably go lengthwise through the second target.

Q. That is, go sidewise?—A. Yes, sir; it would turn and go sidewise, so that we would have a complete vertical diagram of the bullet there. Then on the next target it would take another direction; probably it would turn facing the other way, showing that the bullet was rotating and tumbling throughout the entire trajectory.

Q. Now, tell us whether or not, as a result of your observations and experiments, it would be possible to get an accurate alignment of different holes made by bullets in different walls, so as to sight along and see at what point that bullet had been fired.—A. From my experiments it would not be possible to take one hole. For instance it would be absolutely impossible to determine the firing point. It would be the same as trying to fire a gun by using only the front sight. It would be impossible to get any results. In taking two holes, where the deflection we proved was always very irregular, and the third point, the firing point, could not be accurately located by means of the two holes. Taking the groove, it would be absolutely impossible to sight along the groove and determine the firing point. We found taking the grooves which were made on the different boxes, taking the bullet holes, the eye could not with accuracy look along there and locate a definite point. At one time we sighted through a groove, to locate the firing point. We would go away and go back and look along the groove, and we would locate another point; and within a horizontal distance of about 300 yards this variation in both the horizontal and the vertical would reach as much as a hundred yards.

Q. The variation would reach a hundred yards?—A. Yes, sir. Now, we determined this by looking through this groove about 300 yards at a building and a high water tower, and taking different sights through this groove we could locate the top of the water tower or we could locate the roof of the building or we could locate a point on the ground.

Q. And they were approximately a hundred yards apart?—A. Approximately a hundred yards apart; yes, sir.

Q. You could locate the top of the tower or strike the ground with the eye?—A. Strike a point on the ground with the eye.

Q. Or you could strike a point—A. To the right or left of that.

Q. Varying a hundred yards?—A. Yes, sir.

Q. In a distance of 300?—A. In a distance of about 300 yards; yes, sir.

Q. Have you completed your story of these experiments which you made, or is there anything else connected with it?—A. My other experiments were merely to determine what ammunition the various rifles would fire.

Q. I want to examine you about that, but first I will ask you what, according to your experience and observation, is the cause of the deflection of one of these high-power bullets?—A. The first thickness of the material in the target from which the deflections were made was 1 inch of white pine, and from my experiments I would say that any material would cause a deflection, no matter what thickness it would be, although if it were very thin the deflection would not be so great.

Q. The deflection depends upon just the direction in which the point or nose of the bullet happens to be turned when it strikes the obstruction?—A. Yes, sir; and I also think it depends upon the material. If the material is very nearly homogenous the deflection will not be great, and I think that the bullet will always follow the line of least resistance, pick it out and follow it, and that causes the deflection.

Q. Your testimony amounts to this, as I understand it, that when a bullet strikes a house, for instance, it may go to the right or go to the left, or go up or go down?—A. Yes, sir.

By Senator OVERMAN:

Q. May it in any case go straight forward, straight in?—A. It might.

By Senator FORAKER:

Q. But the general rule—A. As a general rule there is a deflection.

At 1 o'clock p. m. the committee took a recess until 2 o'clock p. m.

AFTERNOON SESSION.

The recess having expired, the committee at 2 o'clock p. m. resumed its session.

Present: Senators Warren (chairman), Scott, Foraker, Hemenway, Bulkeley, Warner, Pettus, and Overman.

TESTIMONY OF SECOND LIEUT. ROBERT PATTISON HARBOLD, U. S. ARMY—Continued.

Second Lieut. ROBERT PATTISON HARBOLD, U. S. Army, a witness previously sworn, being recalled, testified as follows:

By Senator FORAKER:

Q. Lieutenant, what kind of experiment or investigation did you make with respect to high-power rifles in which the No. .30 caliber ammunition provided for the Springfield rifle can be used?—A. I obtained from an officer of one of the companies on the post a Krag-Jørgensen rifle, model 1898. We had our Springfield model of 1903, and I borrowed from a citizen of Laredo, Tex., a Winchester, model of 1895, a .30-40, and later Lieutenant Blyth obtained from another citizen of that community a model 1903 Winchester which would fire the Springfield ammunition. These were the four rifles that we used.

In the Winchester, model 1895, caliber .30-40, we could use the Winchester ammunition as manufactured for that rifle by the Winchester Repeating Arms Company. They manufacture both the steel-jacket and the soft-nose bullets. We can also use in that the Krag-Jørgensen ammunition as manufactured by the Frankford Arsenal.

In the Winchester 1903 model we can use the Springfield ammunition as now used by the service rifle, and the Winchester Company and the Union Metallic Cartridge Company manufacture the same

cartridge for that particular gun, and this cartridge in shape and size is identical with the Springfield.

Q. Can you tell us how many lands there are in the Springfield and how many in the Winchester?—A. Yes, sir; the Krag-Jørgensen rifle and the Springfield rifle have the same number of lands, four.

Q. Each has four?—A. Yes, sir. The Winchester rifle has six. That is, the two that I had in my possession, experimenting with, had six.

Q. All the Winchester rifles have six lands, have they not?—A. As far as I know, sir.

Q. So that if you should see a bullet of .30 caliber that had six lands on it, you would conclude that it had been fired out of a Winchester?—A. Yes, sir.

Q. If it had only four lands, you would conclude that it had not been fired out of a Winchester?—A. Yes, sir.

Q. But that it might have been fired out of either a Springfield or a Krag?—A. Yes, sir; by the lands I could determine that.

Q. Now, the Krag carbine would use the same ammunition?—A. They use the same ammunition as the Krag rifle.

Q. And make the same marks on the bullet?—A. Yes, sir; it has the same rifling.

Q. So there are three kinds of arms out of which a No. 30 Springfield bullet may be fired. There is a difference, as I understand it, between the Springfield cartridge and the Krag-Jørgensen cartridge?—A. Yes, sir; the difference is that in the Springfield the nose of the bullet is slightly more elongated. This would not be apparent unless you examined it carefully.

By Senator WARNER:

Q. That is in the Springfield?—A. That is in the Springfield; yes, sir.

By Senator FORAKER:

Q. Would it be apparent after it had been fired and had penetrated some substance?—A. After firing, if the jacket is intact, and you could see the rear portion of it, then you could determine whether it was a Springfield or a Krag-Jørgensen by means of the cannellures. Those are rings or crimpings around the jacket of the Krag-Jørgensen bullet, put there for the purpose of holding a lubricant. The Springfield does not have those.

Q. State whether or not all the Krag bullets have that cannellure.—A. No, sir; the original Krag ammunition, some of which I have taken apart, 1897 or 1898 ammunition, does not have the cannellures. If those should be fired from a Krag rifle you would then have a bullet similar to the Springfield bullet, fired from the Springfield rifle, and the only means to tell would be by the nose, which, if it had struck an object, would be rendered very difficult.

By Senator OVERMAN:

Q. Could the Springfield cartridge be fired from a Krag?—A. No, sir; they can not be fired from the other rifle.

By Senator FORAKER:

Q. Have you examined any other rifle or experimented with any other rifle than those you have mentioned, in connection with the

Springfield bullets?—A. Yes, sir; I have examined the Mauser rifle, with which the Mexican troops are armed, over in the town of New Laredo.

Q. What is the caliber of that rifle?—A. I think it is .303. I am not certain, but I know that our Springfield ammunition will not fit it. I do not remember the caliber, but the Springfield will not fit.

Q. It is .276, is it not?—A. I don't know, sir.

Q. Is it not a 7-millimeter rifle?—A. It is a 7-millimeter; yes, sir, that I know.

Q. And 7 millimeters is smaller than our .30?—A. Yes, sir. Our Springfield ammunition will not go into it.

Q. That is, our Springfield ammunition is too large for that rifle?—A. Yes, sir.

Q. Do you know whether or not the Mexican army has been equipped with a new rifle during the last year or two?—A. I have heard that the troops around the City of Mexico have been, and I have talked with Mexican officers about it. I understand that the troops outside have not.

Senator WARNER. I would suggest that we certainly can get better evidence on that point than this.

Senator FORAKER. That may be, but I want to find out where I can get it.

By Senator FORAKER:

Q. You understand that the troops outside of the City of Mexico have not been supplied with them, but that they are making preparations to supply their entire army with them?—A. Yes, sir.

Q. Whether they have been supplied you do not know?—A. No, sir.

Q. I will ask you whether or not you have heard that the Mexican army is being supplied, and has been in part supplied, since nearly two years ago, with a rifle that is 7.65 millimeters and made with special reference to our cartridges and out of which our cartridge can be fired?—A. Yes, sir; I have heard that they are being supplied, and partly have been, with a rifle in which our cartridge can be used.

Q. Have you or not heard that they are chambered with special reference to our cartridge?—A. No, sir; I have heard nothing about that. I only heard that our cartridge could be used in them.

Q. You have never seen that rifle?—A. No, sir; I could not get hold of any.

Q. And have not fired any cartridges out of it?—A. No, sir.

Q. Do you know of anyone who has?—A. No, sir; I do not.

Q. What was the character of the experiments you made with these rifles and these bullets—anything beyond what you have already told us?—A. Nothing beyond that. I will state that I have taken the bullets that I have just mentioned, taken them out of the cartridge case, and looked for cannellures and markings on them, and on that I have based the statement I have just made.

Senator FORAKER. I believe that is all.

By Senator OVERMAN:

Q. I understand your information is that these Mauser rifles that will shoot the Springfield ammunition have only been issued to the soldiers in the City of Mexico, and not to the Mexican army generally?—A. Yes, sir; that is my information.

By Senator BULKELEY:

Q. Lieutenant, how many cartridges have you fired in the course of these experiments you have made?—A. I have fired about a hundred, I should say. I have collected about 70 specimens.

Q. How many at any one time or at any one range of targets?—A. The targets that I described this morning—we fired 60 rounds, at least, at those targets.

Q. After you had discharged the cartridge and ejected the shell, where would you be likely to find the shell? Did you ever pay any attention to that?—A. If the bolt is pulled back with force, the shell will be ejected from 10 to 20 feet away, and even if pulled back moderately it will go from 5 to 10 feet, but will be irregular.

Q. Are the shells likely to land in one place?—A. No, sir; by no means. I have experimented with that quite frequently by ejecting five in succession, and they would fall at different places.

Q. You would not be likely to find many in one place?—A. No, sir.

By Senator FORAKER:

Q. How far apart would the five probably be?—A. Well, there is no fixed rule as to that, but they would cover an area, I would say, of about 10 square feet. That is, that would be a safe approximation as to where they always fall; within an area of 10 square feet.

By Senator BULKELEY:

Q. Would you think it possible for six or eight to land and remain within the radius of a circle of 10 inches?—A. No, sir; I would think it improbable.

By Senator WARNER:

Q. You are quite familiar with the different kinds of cartridges and bullets?—A. Yes, sir; I am.

Q. And you know of a difference between the Krag-Jørgensen bullet and the Springfield bullet?—A. Yes, sir.

Q. You are quite clear about that?—A. Yes, sir.

Q. You are quite confident that the bullet of the Krag-Jørgensen is not identical with the bullet of the Springfield?—A. The bullet, as it is issued, is quite different; that is, I mean the bullet as it is issued; not after it has been fired or shattered.

Q. I am talking about the bullet as it is manufactured.—A. Yes, sir; there is a difference, and I know the difference.

Q. And the difference is that the Springfield has the longer nose?—A. More elongated; yes, sir.

Q. More elongated would be longer, would it not?—A. Well, the nose is no longer; they are the same length exactly, but it is more pointed.

Q. More pointed?—A. Yes, sir.

By the CHAIRMAN:

Q. The arc of the circle of the point is flatter?—A. Yes, sir.

By Senator WARNER:

Q. Is there any difference in the base of the bullet?—A. There is a difference in the way in which the jacket is attached to the base.

Q. How about the Mauser bullet?—A. I know nothing about the *Mauser bullet*. I did not experiment with the Mauser.

Q. How about the Winchester bullet?—A. The Winchester bullet is still different from the two—the ammunition of the Krag and the Springfield.

Q. The Winchester rifle is entirely different, isn't it?—A. Yes, sir; there are two more lands in the Winchester than there are in the other two rifles.

Q. And the fact is that Springfield ammunition can not be used in a Krag-Jørgensen gun?—A. No, sir.

Q. When I say ammunition, of course I mean the shell with the bullet complete.—A. Yes, sir.

Q. And it is also true that the Springfield ammunition can not be used in the Mauser?—A. In the Mauser that I have had in my hand it can not be used.

Q. In the only Mauser you know of?—A. Yes, sir.

Q. Now, the Springfield ammunition can be used in the Winchester?—A. Yes, sir.

Q. But when used the bullet will show six lands instead of the four in the Springfield?—A. Yes, sir; it will.

Q. That is correct, is it?—A. Yes, sir.

Q. Now, in what other rifle can the Springfield ammunition be used?—A. I know of no other rifle—that is, of my own knowledge. There is no other that I know of.

Q. Based on the experiments that you have made?—A. Yes, sir; based on those experiments, I know of no others.

Q. Now, there is the Austrian gun, the Mannlicher.—A. Yes, sir.

Q. Did you experiment with that?—A. No, sir; I have not experimented with it. I have seen the gun and studied it, but it was five years ago, and I could not get it for the experiments which I made recently.

Q. Don't you know that the Springfield ammunition can not be used in that?—A. No, sir; I don't know whether it can or not.

Q. Now, a word as to this firing. As I understand you, the result of your experiment, so far as you know, is that the course of the bullet when fired out of one of these high-power Springfield rifles is very erratic after it strikes a substance?—A. Yes, sir.

Q. Does that depend anything upon the angle of the target or the substance that is struck, with reference to which the gun is held?—A. The angle of fire will increase or diminish the deflection. I determined that to be a general rule.

Q. As we possibly do not know, what do you mean by the angle of firing? Is that the angle at which the gun is held when the discharge is made?—A. No, sir. By the angle of fire I mean the line through the sights and the eye of the firer—the angle made by that line with the surface of the target.

Q. If that angle is to the right, which way will the bullet be deflected?—A. I do not know.

Q. If the angle is to the left, which way will the bullet be deflected?—A. There is no rule about that.

Q. You do not pretend to be an expert at this, only from your experiments, do you?—A. My statements are based on actual experiments, not on anything theoretical.

Q. If the angle of the gun is down—that is, if the sight is down—which way will the bullet be deflected?—A. In one of my experi-

ments it was deflected upward. After it had gone down for a certain distance it came up. I remember that particular instance.

Q. That might be an erratic instance. What is the general course of deflection?—A. As I said before, there is no general rule. The deflection is erratic. It may be to the right or left, or go up or down, and is not governed by the angle at which the gun is held or the angle of fire.

Q. Then, Lieutenant, do I understand that if a bullet is fired out of a Springfield rifle held at a certain angle, the bullet in striking the target may be deflected in one way or another without any given rule?—A. Yes, sir.

Q. And that a second bullet fired at precisely the same angle and through the same resisting substance will be deflected in an entirely different way from the first?—A. Yes, sir; that is what my experiments have shown.

Q. So that if you wanted to determine whether the party firing the gun occupied a certain position, you could not tell from the course of the bullet in any manner where he stood?—A. No, sir.

Q. If it was a distance of 200 yards—I think that was one of your experiments, was it not?—A. Yes, sir.

Q. Did I understand you to say you could not tell within a hundred yards of where he discharged from?—A. No, sir; I said at 300 yards.

Q. Tell us about that.—A. At 300 yards the deviation might be a hundred yards in both the horizontal and vertical direction. That was my statement.

Q. That at 300 yards, firing at a target, you could not tell within a hundred yards of where the party was standing who fired that shot?—A. No, sir; I could not.

Q. That is the result of your experiments?—A. Yes, sir.

By Senator PETTUS:

Q. I should like to know whether you speak of a solid target or several together, like you spoke of before?—A. This particular target was a solid target. The groove was made right along the surface of a board, and I should like to state that what rendered that so inaccurate is the fact that you can not get your eye in the true line of sight. It is impossible. The groove was curved in every instance that we had, and the true line of sight could not be determined. For that reason the deviation would always exist. Your eye could never be twice in the same place.

By Senator OVERMAN:

Q. Suppose there was a shot made so that the eye could follow it, so you could get the alignment?—A. If the eye could get the alignment, I would say that I could determine the firing point, if the line was long enough; that is, if the groove was long enough.

By Senator WARNER:

Q. What is the deflection of the course of the bullet after it leaves the rifle until it strikes the target?—A. With the rifle we use the deflection has been overcome by the adjustment of the sights. In the original rifle that the troops had—that is the original Springfield that we had in 1905—the deflection was to the left, I think—the deflection was to the right—we had to take left windage.

Q. Are you sure about that?—A. No, sir; I am not sure. I know there was a deflection either to the right or to the left.

Q. Are you sure that the deflection is not downward?—A. No, sir; the deflection is upward. The trajectory moves up.

Q. It is upward, and either to the left or right?—A. It is upward and either to the right or left.

Q. You don't know which?—A. I don't know which it is, although it would be a very easy matter to satisfy myself on that point.

Q. By going to the books?—A. Yes, sir.

Q. I was asking you from your own knowledge.—A. Yes, sir.

Q. This tumbling of bullets, when does that commence?—A. It commences as soon as the bullet leaves the muzzle of the gun.

Q. What do you mean by the tumbling of a bullet, so that we will understand it.—A. The tumbling, as I define it, is an unstable condition of the bullet in its trajectory.

Q. Is it not going end over end?—A. No, sir; not necessarily; it is moving up and down and rotating. It may have the motion of a gyroscope, having two movements.

Q. It is a kind of wobbling?—A. Yes, sir.

Q. Up or down or right or left?—A. Yes, sir; an unstable movement of the bullet after it leaves the gun.

Q. With a gun which gives a rifling to the bullet, will that have a wobbling?—A. Do you mean a gun that has rifling?

Q. Yes.—A. Will it cause the bullet to wobble?

Q. Not will it cause the bullet to wobble, but will a bullet wobble when fired from such a gun?—A. When it leaves the gun there is an irregular motion. It is unstable, but that rights itself, and with our present rifle between four and five hundred yards is the place where the greatest stability is secured in the trajectory. Up to that point the bullet is unstable in its trajectory.

Q. Is this wobbling of bullets fired out of the Springfield rifle customary?—A. I think it is, sir, at the beginning—for it to be unstable.

Q. From your observation?—A. That is my observation; yes, sir.

Q. So that the point of the bullet will not strike the target fairly, but rather sidewise, one way or the other, and give it a greater deflection?—A. Well, from the perforations made, the point strikes fair if fired at the target. Our minimum range was 40 feet; we did not go right up to the target and fire at it.

Q. At 40 feet would the point strike the target squarely?—A. It was so indicated by the holes made by the bullets.

Q. And then it would deflect?—A. Yes, sir; it would be deflected as soon as it struck the material.

Q. In some cases up and in some cases down and in some cases to the right and in some cases to the left?—A. Yes, sir.

Q. Although the target was in the same position and the gun, as nearly as could be, was held in the same position?—A. Yes, sir.

Q. That was as nearly as possible?—A. Yes, sir.

Q. That is your observation?—A. Yes, sir.

Q. You made these experiments about being able to see parties in an arroyo. In order that we may have it in the record, just describe this arroyo to us in which this experiment was made.

By Senator OVERMAN:

Q. What does arroyo mean in Spanish—a ditch?—A. Yes, sir; it is a ditch or cut. It is caused by the water washing out the soil. The banks were perpendicular. There were two parallel arroyos, and for the purpose of experimenting a cut had been made between the two, so that they were connected and we could look over into the second one. To get the men at a maximum distance from us we placed them in the second arroyo and we stood on the bank of the first.

By Senator WARNER:

Q. It would save time if we could get a description of it.—A. The banks of this arroyo were nearly perpendicular, about 22 feet down, and about 25 or 30 feet wide one was, and the bank between was approximately 10 feet. Then the other arroyo was of about the same size.

Q. The bank between was about 10 feet, and you cut through that bank?—A. Yes, sir; we cut through, so we could have a passage between the two arroyos and look over into the second one from the bank of the first—that is, the far bank of the first.

Q. You stood on the ground between the two?—A. No, sir [illustrating]. This would be one arroyo here and this, the other, and we stood here. There was a passage cut here, so that the men in this arroyo could be observed through this passage by the observer standing here.

Q. I want to get the depth and width of the arroyo. You said it was about 20 feet deep?—A. About 22 feet deep.

Q. How wide?—A. I estimated it to be some 25 to 30 feet wide.

Q. That is the ditch, you may call it, washed out by the water?—A. Yes, sir.

Q. What is there in this arroyo?—A. A scant vegetation, some tufts of grass; that is all in the arroyo.

Q. You were standing up and looking down?—A. Yes, sir.

Q. So there was a solid embankment upon each side?—A. Yes, sir.

Q. Do you think that would be anything like the angle of vision, or the powers of vision, that you would have in the streets of a city?—A. Yes, sir; I think we attained the same angle as an observer from a second-story window would obtain in looking down. The height would be about the same.

Q. If a street were 6 feet wide and not built up solidly at all on each side, and it was near the corner of a cross street, with a street-lamp there, do you think you had conditions in this arroyo similar to that?—A. No, sir; we did not have those conditions.

Q. Entirely dissimilar?—A. They were not entirely dissimilar, but they were dissimilar in some respects.

Q. Anything peculiar about the moonlight in Texas?—A. Nothing that I have observed.

Q. The same as you have observed it in other places?—A. Yes, sir.

Q. I think you said the moon was shining brightly that night?—A. Yes, sir; I stated that when the first experiment was made I could with study make out a typewritten letter.

Q. It was what you could call one of these day moonlights, it was so bright?—A. No, sir; I would not call it that.

Q. What would you call it?—A. The moon was about half full and about two hours from down.

Q. What day of the month was it?—A. On February 18-19; that is, the night continued from the 18th into the 19th.

Q. It was the night intervening between those two days?—A. Yes, sir.

By Senator SCOTT:

Q. As I understand it, you commenced before midnight on the night of the 18th?—A. Yes, sir.

Q. And finished after midnight on the morning of the 19th?—A. Yes, sir. And I would call that the night of the 18th-19th.

By Senator WARNER:

Q. Were you two days out there?—A. No, sir; we were there the night of the 18th and 19th.

Q. I think we can get this. You started in at 9 o'clock?—A. Yes, sir.

Q. That was the night of the 18th?—A. Yes, sir.

Q. And stayed there until after 12 o'clock that night?—A. Yes, sir.

Q. Which was the morning of the 19th?—A. Yes, sir.

Q. That is what I supposed. Now, when the men marched up in that moonlight—marched up within how many feet of you?—A. They were within 5 feet of me.

Q. Out of the arroyo?—A. They had come out of the arroyo and they were about 75 or 100 feet from the arroyo.

Q. Then they were up so you were on the same level with them?—A. Yes, sir; right on the same level.

Q. And in this moonlight, in which you could read a typewritten letter with difficulty, as you have stated, in that light, standing within 5 feet of a man, you could not recognize whether he was a colored man or a white man?—A. No, sir.

Q. That is correct, is it?—A. Yes, sir.

Q. Could not tell how he was dressed?—A. I could tell light from dark.

Q. But that was all?—A. That was all. I could not pick out the articles of his clothing and describe them.

Senator PETTUS. Which way was the moon?

By Senator WARNER:

Q. Senator Pettus wants me to ask you in what direction was the moon from you at that time?—A. The moon was coming over my left shoulder—that is, I was facing the line coming up, and the moon was coming right down over my shoulder.

Q. So the moon would shine right on the men?—A. Would fall right on the men.

Q. So you had the full benefit of the moon, whatever it was?—A. Yes, sir; they were not in the shadow.

Q. You were in the shadow?—A. I was. They were not in the shadow.

Q. But in the full moonlight?—A. Yes, sir.

Q. And at 5 feet you could not tell?—A. I could not tell.

By Senator OVERMAN:

Q. Were these men in the ditch shooting from the hip or from the shoulder?—A. They were shooting from the shoulder.

Q. That would make some difference as to the flash, would it not, recognizing a countenance from the flash?—A. No, sir; I do not think it would.

Q. In shooting from the hip the flash might be right next to a man's face and you would recognize him then?—A. If the flash was close to his face, do you mean?

Q. If the flash were close to his face.—A. If the flash were close to his face I would probably recognize him, but I do not see how a man could fire so as to get the flash close to his face.

Q. Do you want to leave this committee under the impression that a man on a moonlight night in the streets of Brownsville could not recognize a white man from a colored man 5 feet away?—A. Under conditions as I have described them, when we made the experiments, I want to leave the committee under that impression; yes, sir.

Q. You want to leave the committee under the impression that with lamps at each corner on the street, on a starlight night, and with the light of a lamp shining in a man's face, you could not tell a white man from a colored man in Brownsville?—A. I described no experiments under those conditions. The experiment that I described with these men was that they were coming between me and the light, I think I said four or five paces away, and that I could not distinguish them.

Q. I understood you to say that these men were in the light in the experiments that you made at the barracks at Fort McIntosh?—A. Yes, sir; that is what I stated. When they came between me and the light, 4 or 5 paces away, I could not distinguish a white officer from a colored man.

Q. How many paces?—A. About 4 or 5. That would be 12 or 15 feet.

Q. At 12 or 15 feet was the light shining in their faces?—A. Yes, sir; the light was shining in their faces when they would be approaching the light, coming down the walk.

Q. You could not tell a colored man from a white man?—A. No, sir; you could not tell them.

Q. You made no experiments at Brownsville at all?—A. I was never in Brownsville; no, sir.

Q. You do not know what the conditions there are?—A. No, sir; I do not.

Q. How came you to make those experiments?—A. I made the experiments at the suggestion of other officers.

Q. Who?—A. The first suggestion I had was through Lieutenant Blyth, from Captain Lenihan.

Q. Who is Captain Lenihan?—A. Captain Lenihan, of the Twenty-fifth Infantry.

Q. These were all made by officers of the Twenty-fifth Infantry?—A. Yes, sir; they were the officers we had there, and we conducted the experiments there. We had one civilian who was there at the time.

Q. Is it not a characteristic of an officer to stand by his men—his battalion or his company?—A. Yes, sir; he will stand by them to see that they get justice; yes, sir.

Q. And they are rather prejudiced in their favor always when charges are made against them?—A. No, sir; not if the charges are founded.

Q. You are always inclined to believe that they are not guilty when a charge is made?—A. No, sir; I am not.

Q. Is it not natural for an officer to be prejudiced in favor of his own men?—A. It is natural for an officer to stand up for his men, and to go into a thing thoroughly; yes, sir; and not have anything done without his investigating or knowing of it.

Q. Why did you select a ditch 20 feet deep and 25 feet across in which to make this experiment?—A. We wanted to get above the men and near to them, so that we could observe them as closely as possible, and as the men were firing ball ammunition, the ditch was necessary for the protection of human life and limb.

Q. That was the reason you put them in a ditch?—A. Yes, sir.

Q. Really in a hole in the ground—you were above them?—A. No, sir; it was not a hole in the ground. The arroyo ran down to the river. That was probably a quarter or a half a mile distant; I do not know; but it was a great distance down there, and the moon shone throughout this arroyo.

Q. Do you think those conditions would be the same as the conditions on the streets of Brownsville?—A. No, sir.

Q. So you do not intend to leave this committee under the impression that the conditions were the same when you made that experiment in that ravine or ditch, or whatever you call it, in that arroyo as they were in Brownsville?—A. No, sir; I do not know the conditions at Brownsville.

By Senator WARNER:

Q. How was this shooting done? Was the gun at the shoulder or at the hip?—A. The gun, as I stated, was fired from the shoulder.

Q. Was there any experiment with guns fired from the hip?—A. Not that I know of. Nothing was said that I heard, or I did not notice if it was.

Q. But, if anything, you could see the men better by the starlight than you could by the moonlight?—A. You could see the men better by moonlight, but the flash was brighter by starlight than by moonlight.

Q. It enabled you to see better—that is, to see the flash—by starlight than by moonlight?—A. Yes, sir.

By Senator OVERMAN:

Q. Was there any other regiment or battalion or company at Fort McIntosh excepting companies of the Twenty-fifth Regiment?—A. You mean since we were there?

Q. Since the time you made these experiments.—A. No, sir; they were the only troops there.

By Senator FORAKER:

Q. Tell us again, in this connection, who the other observers were who were present with you? I understand Major O'Neil was one of them.—A. Yes, sir; Major O'Neil, Lieutenant Blyth, and a civilian by the name of Stucke.

Q. Who is that civilian by the name of Stucke?—A. He is a civil and electrical engineer employed at the coal mines.

Q. What country is he a native of?—A. He is a Texan.

Q. Lives in Texas?—A. Yes, sir.

Q. He testified before the Penrose court-martial, did he not?—A. Yes, sir.

Q. Can you say whether or not you all had precisely the same experience?—A. We all had precisely the same experience and attained the same results.

Q. You were asked whether or not it was natural for officers to stand up for their men, and to be prejudiced in their favor. I think that was a part of the question. I understood you to say it was. Does that go to the extent of influencing a man when he is under oath and giving testimony?—A. No, sir; it does not.

Q. Does your interest in these men and in clearing them from the offences with which they have been charged lead you to testify untruthfully here?—A. No, sir; by no means.

Q. You are trying to give us the exact facts, are you?—A. Yes, sir.

Q. You were asked about the tumbling of these bullets, and I understood you to say that the greatest tumbling was after they first leave the gun?—A. That is what I understand as tumbling.

Q. As you have described it?—A. Yes, sir.

Q. And that they get down to the point where they go steadily and straight after they have reached a point 400 or 500 yards away?—A. Yes, sir.

Q. Now, I will ask you if there is such a thing as a battle range for a bullet?—A. Yes, sir.

Q. What is that?—A. Our battle range is 400 yards, and our guns are so arranged that the sights are all down for that range.

Q. Are those bullets or not supposed to inflict less severe wounds after they reach that distance from the muzzle than they would if they were to strike one nearer to the muzzle?—A. Yes, sir; the wound would be less severe, unless the bullet was obstructed.

Q. Do you know what kind of a wound one of these bullets fired out of a Springfield rifle would make if it were to strike a man within 50 or 100 feet from the muzzle of the gun?—A. We had a case at Fort Niobrara of a soldier attempting to commit suicide with his rifle, and that is the best illustration I know of. He placed the rifle under his arm and tried to reach his heart. The bullet came up and shattered his arm—shattered the bone completely. Splinters of it were driven out and other parts driven through his arm. However, his arm was saved—did not have to be amputated.

Q. The man was saved?—A. Yes, sir.

Q. Did not kill himself?—A. No, sir.

Q. Do you know what kind of a wound one of these bullets would be expected to make if it should strike a man within 50 or 100 feet from the muzzle of the gun out of which it had been fired?—A. If it did not reach a vital part I do not think the wound would be fatal, but it would be larger than if it was at 400 yards.

Q. Well, suppose the bullet was to strike a man and pass clear through him and kill him instantly, or practically so, as it has been testified a man was killed in this affay at Brownsville, and he was not more than 50 or 100 feet, at the outside, from the muzzle of the gun. What kind of a wound would you expect it to be? Would it be larger at the point of entrance than at the point of exit, or would both orifices be the same?

Senator Scott. Or the reverse?

A. If the shot was fatal and did not reach a vital spot, I would think the bullet was not in its true trajectory when it went through there, that it was tumbling, or was spreading and went through and made a larger hole.

By Senator FORAKER:

Q. The description of the wound that this man received is, as I remember it, that the hole made by the bullet where it passed in, and also where it passed out, was very small—that is, that they were so nearly alike that it was difficult to tell whether the bullet had gone in at one side or the other—that is, to tell which was the point of entrance and which was the point of exit—a very small hole. Could you tell from that kind of a description whether he had been killed by one of these bullets, basing your answer on your experience and observation?—A. I could not tell, as I have made no experiments upon human bodies or cadavers; but if the entrance was the same as the exit I would think that the bullet had been fired from long range.

Q. That the bullet had come a considerable distance before it struck?—A. Yes, sir; about 400 yards, because that is where the bullet should have that effect.

By Senator OVERMAN:

Q. Suppose at figure 7 on the map there was a bullet hole up in the second story of a building, and looking through that bullet hole you looked out on what is the barracks there; could you tell from what direction that bullet was fired?—A. Looking through the one hole?

Q. Yes.—A. No, sir; it is an impossibility to locate one point by another point.

Q. Looking through the bullet hole in the side of a house, you could not tell whether it was fired from one direction or another?—A. You would have to have two points at least, to determine the third.

Q. Suppose you found a bullet in there which had been fired into that side of the house next to the barracks, could you locate with any degree of distance the point from which it came?—A. No, sir; I would not attempt to.

Q. You could not tell, then, the general direction?—A. You could tell that the bullet came from that side. That is all that I would state.

Q. You could tell, from the range of your vision, that it must have been fired within that range? I understood you to say that you could look 150 feet each way through the aperture made by the bullet.—A. No; I stated that I looked along the groove.

Q. Along a groove?—A. Yes, sir; I got the deviation, not through a single hole, because through a single hole the eye of a man can take in a very large area.

Q. Can you tell me what you mean by a groove?—A. Why, by a groove I mean if a bullet should strike, say, here, and instead of penetrating the wood should plow along the surface and describe an arc, or it might go straight in, and not make a complete penetration—just plow through.

Q. Looking at the groove, then, you could tell the direction?—A.

No, sir; I said I could tell the direction, but could not locate the firing point with accuracy. You would get a large deviation.

Q. But could you determine with any probability within what range it was fired?—A. I figured out that in a horizontal distance of 300 yards there could be a deviation of 100 yards both vertically and horizontally as to the place where the firing might have been.

Senator OVERMAN. That is what I understood.

Senator FORAKER. I find by referring to the testimony that I correctly described the wound of the man who was killed, so I will not ask any further questions about that.

By Senator WARNER:

Q. You said something about a man being shot by one of those bullets, say, at 40 feet away.—A. No, sir; the gun was placed right under him.

Q. That was the case of the attempted suicide; but what if a bullet struck a man 40 feet away and went through him and did not strike any vital spot, you do not think it would kill him?—A. No, sir; I do not think it would.

Q. But if it should strike him when he was 400 yards away it would go through him, and if it did not go through a vital part what would be the difference?—A. I did not state that. I stated that if a bullet went through a man and the hole of entrance was the same size as the hole of exit I would assume that the bullet had been fired at midrange—400 or 500 yards.

Q. I understand that; but before that you had answered a question about when a man was wounded, say, at a distance of 40 feet or 40 yards from the firing point; I don't remember which it was.

Senator FORAKER. I said 50 or 100 feet away; something like that; I don't remember.

By Senator WARNER:

Q. Fifty or 100 feet, whatever the question was. Would he be as apt to be killed as he would be if he were struck at 400 yards?—A. There would be no difference that I know of.

Q. No difference whatever?—A. No, sir; the bullet at 400 yards should not be any more fatal than at 40 feet if it struck no vital part.

Q. Just the same?—A. Just the same.

Senator FORAKER. I understood the witness to say that at the short range the bullet would probably make a larger wound than at the longer range?

A. Yes, sir; that is what I stated.

By Senator OVERMAN:

Q. How many men have you seen wounded with these Springfield high-power rifles?—A. As I have stated, I have never seen any. That opinion is just based on the holes of entrance and exit.

By Senator SCOTT:

Q. Lieutenant, from the tests that you made on the moonlight night and afterwards when the moon had disappeared, and the testimony of people in Brownsville that they recognized these men, would you think it possible that they could recognize them?—A. No, sir; I do not think that they could, and I am certain of it because

the conditions under which I made my experiments were entirely different from the conditions under which they made their observations. The conditions were more favorable to me.

By Senator OVERMAN:

Q. If as many as 10 men of good character and respectability should come to you and tell you that they had recognized colored soldiers that night in the streets of Brownsville, with their guns, under the conditions which have been related, as you have read them, notwithstanding that, owing to the experiments you have made, you would still say that they were mistaken, would you? If 10 respectable men of good character should come up before you and tell you that they had recognized these men that night and that they knew they were colored men, would you still believe that they were mistaken, judging by your experience?

Senator SCOTT. On a dark night.

A. Yes, sir.

TESTIMONY OF SECOND LIEUT. JAMES BLYTH, U. S. ARMY.

Second Lieut. JAMES BLYTH, U. S. Army, being first duly sworn, testified as follows:

By Senator FORAKER:

Q. Give us your name in full, Lieutenant.—A. James Blyth.

Q. You are an officer in the Twenty-fifth U. S. Infantry?—A. Yes, sir; second lieutenant.

Q. And have been how long?—A. Three years and four months.

Q. Of what company?—A. Battalion quartermaster and commissary, third battalion.

Q. Have you at any time been connected with any company?—A. Yes, sir; with K Company.

Q. What rank have you in the Army?—A. Second lieutenant.

Q. How long have you been in the Army altogether?—A. Eight years and seven months.

Q. Are you a graduate of West Point?—A. No, sir.

Q. You were appointed from civil life?—A. From the ranks.

Q. Were you present at Fort McIntosh in February and March of this year, when certain experiments were made?—A. Yes, sir.

Q. As I understand, experiments of two kinds were made, some with respect to the power of vision at night and some with respect to the course of bullets?—A. Yes, sir.

Q. As to their deflection, and so forth?—A. Yes, sir.

Q. Tell us first about the experiments made in February concerning the powers of vision at night. Were you present at those experiments?—A. Yes, sir.

Q. Tell us who else were present?—A. Major O'Neil, Lieutenant Harbold, Lieutenant Elser, and a civilian by the name of Colonel Stucke.

Q. You were the observers?—A. We were the observers; yes, sir.

Q. Now, tell us who made the experiments, who conducted them?—A. Lieutenant Wiegenstein.

Q. Is he an officer of the Twenty-fifth Infantry?—A. Yes, sir.

Q. Now, go ahead and describe what that experiment was.—
A. He arranged to have the men go down there at night. We did not know how he was going to conduct it at all. After everything was ready we went out at about half past 8 in the evening and stood on the edge of an arroyo. The men were down underneath. When the first volley was fired Major O'Neil shouted to him and asked him which way the men were facing. We could not tell. Lieutenant Wiegenstein laughed and said that was a part of the test, that he did not care to say. He wanted us to find out for ourselves.

Then we moved down about 50 feet farther, I should say, along the edge of the arroyo. Two more volleys were fired, and some fired at will, but all we could see was the flash of the rifle. We could not see the rifle that fired it.

Q. Have you any memorandum that shows the distances at which you were making the observation?—A. Yes, sir.

Q. Please produce the memorandum, and tell us how far the squad was away from you when the first firing which you have mentioned was done?—A. The first firing on the horizontal was 50 feet and 4 inches, and the vertical height was 21 feet and 2 inches.

Q. That was which firing, the second or the first?—A. It was the first.

Q. You were that far distant?—A. Yes, sir.

Q. And at that distance could you distinguish the men?—A. No, sir.

Q. Could you tell whether they were white men or negroes or Mexicans?—A. The light was not sufficient for us to tell which way they were facing even.

Q. You could not even tell that?—A. No, sir.

Q. Could you tell anything about the different articles of clothing they wore?—A. No, sir.

Q. Was there a further firing?—A. Yes, sir.

Q. Where did that take place? How far were you from them?—
A. That was 24 feet on the horizontal and 20 feet and 7 inches above them. The results were the same.

Q. Then was there another trial?—A. Yes, sir; we moved down then.

Q. You moved down or they moved down?—A. We moved down to another place. That was 69 feet 2 inches away and 20 feet 5 inches above them; and looking almost into their faces, when the volleys were fired, all we could see was the flash, that was all.

Q. You could not tell anything about their faces, you mean?—A. We could see nothing but the flash.

Q. And you could tell nothing about their clothes?—A. No, sir; we could not even see the rifles that were fired.

Q. You could not even see the rifles?—A. No, sir.

Q. Could not tell whether they were Krag's or Springfields or Winchesters or what?—A. No, sir.

Q. Was there any other firing, still another test?—A. Yes, sir; after that they marched down one arroyo and came up another, almost directly underneath us, in single file, but we failed to distinguish anyone, could not tell who they were at all. They were halted then underneath us, at that time 20 feet and 5 inches below

and 18 feet and 7 inches from us. Then the flash of the rifles would come, and the eye would involuntarily close. The closer it got, the more the noise of the report and the flash of the rifle attracted your eye. Before you could take your eye away to look for anything else, the light would disappear, so it was impossible to see anything.

Q. Did you make any further tests?—A. Yes, sir; we brought the men up—

By Senator WARNER:

Q. In order to save time, because I do not care to cross-examine I will ask this question: They were 22 feet below you?—A. Yes, sir.

Q. And 18 feet from you?—A. Twenty feet 5 inches below us.

Q. And how many feet from you?—A. Eighteen feet 7 inches.

Q. From you?—A. Yes, sir; on a horizontal, and vertically 20 feet and 5 inches.

By Senator OVERMAN:

Q. From the bank to where they were?—A. We were standing on the bank and that was the distance measuring down.

Q. The base of the triangle was 18 feet?—A. Yes, sir.

Q. And you did not measure the hypotenuse?—A. We did not measure that.

By Senator SCOTT:

Q. You were standing up here, as I understand it, and then over here [indicating]?—A. Yes, sir.

Q. The height here was 20 feet and 5 inches?—A. Yes, sir.

Q. And the horizontal distance from here to here was how much?—A. Eighteen feet and 7 inches.

By Senator WARNER:

Q. You did not get the hypotenuse?—A. We did not get that.

By Senator PETTUS:

Q. Do you mean the diagonal distance, or what do you mean?—A. We measured the two sides of the triangle. We did not measure the hypotenuse. We did not figure that out.

Q. You measured it with a tapeline?—A. Yes, sir.

Q. Not with a common rule?—A. Oh, no.

Q. A tapeline, or something of that kind?—A. A steel tapeline, and also with a clinometer.

Q. You did not measure the hypotenuse?—A. No, sir.

By Senator FORAKER:

Q. After these firings in the arroyo, what happened next?—A. We brought the men up on the bank—took them up on the road. The road was about 8 feet wide. We divided ourselves into two parties, one party on each side of the road. The moon was shining, and it was a clear starlight night, so there was a good light. The men were marched past, in single file, between us, and we wanted to see if we could distinguish the features of the men. After they all passed by I asked Major O'Neil to have a number of white officers march past, so I could get the exact distance to us from them, to see if I would get the same impression that I did from the soldiers going by. Lieutenant Wiegenstein came back and laughed and said: "Then you don't know that there are white men in the line?" I said: "No;

I did not know that." So the detail was halted and I went up and scanned each man's face. We were about 2 feet from them at that time. I peered right into their faces, and I myself picked out one man who was a little lighter colored than the remainder, and he turned out to be a Mexican. The other men I did not distinguish at all. After we had passed he told me that there was a white man in the center of the line, and also a man who, I believe, was an Italian.

Q. Did you have any further experiments?—A. That night, after the moon went down, we went out and had the same experiments.

Q. With the same results?—A. And with the same results. The only difference was that after the moon went down, and at a greater distance—we were 69 feet and 2 inches away—when the rifles were fired by volley what I saw was just a long line of legs with dark material. It seemed to be long trousers that the men had on, but after the experiment was over and they were brought up on the bank I found that they had on khaki breeches and leggings. So I received a false impression.

Q. And you observed as closely as you could?—A. Yes, sir; we cautioned one another to watch. Not only that, but after the first volley was fired we cautioned one another to watch where the faces should be.

Q. What interest had Colonel Stucke, if any, in that investigation?—A. None whatever; no interest at all. He was there as a guest of Major O'Neil to dinner and went out with us after dinner.

Q. He is not connected in any way with the command?—A. No, sir.

Q. Were you all of one mind as to the result of the investigation?—A. As far as it went. It was impossible to distinguish features by the flash of a rifle, or to distinguish color or complexion.

Q. After nightfall, when the firing was in the dark?—A. Yes, sir.

Q. Did you have any further experiments?—A. We had another one on the 11th of March at night. At that time Captain Lewis and Lieutenant Harbold and myself were the observers.

Q. Was that of this same general nature?—A. Of the same nature as in the arroyo. After the firing in the arroyo we came up and went into my house, and went upstairs and looked out of two windows, 3 feet away, down, and the men were marched past underneath the windows, and we failed to recognize any features or any complexion. We could distinguish from the light shining out from my window on the first floor that they had on shirts made of dark material of some kind, and lighter trousers, but what they were we could not tell.

Q. Yes.—A. Then they were moved around in front of the house and marched across the parade ground, and in rear of a light, and when they got about 60 feet away we were unable to see them. They disappeared entirely from view. They were brought back and marched between a street lamp and my porch—we were all sitting there—the distance being about 20 paces. We afterwards measured that. We did not recognize anyone. Then they were brought around, and right along on the sidewalk in front of the house, which is only 5 paces away, and at that distance we failed to recognize Lieutenant Wiegenstein, who was in the center. We did not know he was there. He was the only white man in the lot.

Q. What was the character of the night? Was it an unusually dark night?—A. The stars were shining, and there was no moon.

Q. The stars were shining, and no moon?—A. Yes, sir; with a street lamp only 20 paces away.

Q. Now, if anyone were to say that looking out of a window of a dark night he or she saw a gun fired, and recognized by the flash of that gun, it being a high-power rifle such as you have in use, the face of a man as that of a negro, and was able to detect that he had freckles on his face, what would you think of that kind of a statement, from your observation and experience?—A. I would not believe it.

Q. You would not believe it?—A. No, sir.

Q. And what would you believe of a statement of similar character, to the effect that by the flashes of rifles it could be determined whether the hats worn by the men shooting the rifles were black hats or gray hats, or whether they had cords around them or not?—A. With our rifles the experiments showed that the flash of a rifle was not sufficient to show you anything.

Q. You could not tell what kind of a rifle it was, even?—A. No, sir; you could not even see the rifle that fired the shots.

Q. So that if anyone who was looking out could see such things as I have indicated it was because they had better powers of observation than you had, or else they were mistaken in what they saw or observed?—A. Yes, sir; that is it.

Q. Did you make any experiments as to the deflection of bullets when they passed through obstructions?—A. Yes, sir.

By Senator SCOTT:

Q. Before you go on with the bullets I want to ask you a question or two. You were born in Scotland?—A. Yes, sir.

Q. You have no race prejudice at all?—A. None in the slightest, sir.

Senator SCOTT. That is all.

By Senator FORAKER:

Q. Now, tell us when these experiments to show the deflections of bullets after they passed through obstructions were made.—A. We made them at different intervals from February 8 on.

Q. At Fort McIntosh?—A. At Fort McIntosh; yes, sir.

Q. Who assisted you?—A. Lieutenant Wiegenstein and Lieutenant Harbold.

Q. When were your main experiments?—A. The main experiments were on February 13. We put up several boxes made out of soft pine seven-eighths in thickness and stood at 100 yards, at 50 yards, at 40 yards, at 50 feet, and different ranges, and fired into the boxes to see what it would take to stop the bullet and what the penetration would be. We were unable to stop any bullets through the wood alone.

Q. How many inches of that wood did the bullets pass through?—A. There was one case where we had 19 inches, and then later on we put up about 24 oil cases that Standard oil comes in of seven-eighths pine, about eight of these in a row touching one another, with four double partitions of the same material.

Q. State whether or not your bullets when fired would penetrate

all that.—A. When the bullet went straight—that is, if it went through all the material—we never found it again.

Q. You never found it?—A. No, sir; but most of them were deflected so that they left the boxes before they went through all the thicknesses of the material.

Q. What was the result in regard to deflection?—A. All were deflected.

Q. Every one?—A. Every one.

Q. How were they deflected?—A. Some were so deflected that they would pass out of the target altogether. Others would pass through one partition of 2 inches and then leave the other target, which was only 3 or 4 feet away beyond it, untouched.

Q. I understand your targets were set up one behind another—like that [indicating]?—A. Yes, sir. If a bullet went through here it would be deflected before it would strike the other beyond it. That was the case in every instance.

Q. How many of these shots did you fire?—A. We must have fired three or four hundred shots.

Q. Three or four hundred shots. And some of these deflections were so great that the bullet left the partition altogether—the obstruction?—A. Yes, sir.

Q. Now, can you give us any statement as to any particular deflection, as to how great it was? Did you make any observation of that kind?—A. Yes, sir; for deflection; to show you, one bullet after passing through half of the obstructions curved over to the left, struck the ground behind a mesquite tree, and came right back and landed at our feet, almost alongside of where it had entered the first partition. It acted like a boomerang.

Q. It left the boards and came back to the point from which it had been fired?—A. Yes, sir; within 20 feet of where we were standing for safety from the man firing the rifle. That was one exception.

Q. Were these deflections upward and downward as well as to the right and left?—A. Both ways. We had one case, where the man was firing from a distance of 200 yards, where the bullet struck the bottom of a box, went down into the next box and without penetrating went along as it were under the skin of the box, under the surface of the wood, and came up through into the other one and executed a wave motion for about 9 inches, and then came out 9 inches higher than where it went in.

Q. It came out 9 inches higher than where it went in?—A. Yes, sir. The next shot we fired struck the edge of the same box probably 12 inches to the left of it. Instead of going down in its flight, when it struck the box it started up and had the same kind of a movement, and that came out about 6 or 7 inches lower than where it went in. We never found two bullets take the same course. Then I fired five shots and put them in the shape of a cross that could be covered with the palm of the hand in the first partition, and the second partition only received three of them, and they were widely scattered.

Q. Then two of them were so widely deflected that although they passed through here they had gone outside, to the right?—A. We did not know where they went to. Only three of them struck the second partition.

Q. How far was that partition away from the first partition?—A. Twelve feet.

Q. In a distance of 12 feet it deflected so far as to miss entirely the second partition?—A. Yes, sir.

Q. How much of a deflection was it necessary for the bullet to make to miss the second partition?—A. Eighteen inches.

Q. In 12 feet?—A. Yes, sir. They were widely scattered. Those that were on the board were around the edges of it. And when we got to the third obstruction, there was only one which penetrated it. That was the last one.

Q. Two of the others had gotten away?—A. Yes, sir.

Q. What became of that one bullet? Do you know what became of that?—A. That kept on going. We could not stop it with the board we had.

Q. Did that go straight or deflect?—A. That went off to the side.

Q. They all deflected?—A. Yes, sir.

Q. That one deflected, too?—A. Yes, sir. Then we had the same case with three partitions. The bullet, after passing through the first partition—here—grazing the edge of the second, came back and went in through the third about 2 inches from the right edge.

Q. It just went around?—A. It had a curved motion.

By Senator WARNER:

Q. It went around the corner?—A. Yes, sir; it went around the corner.

Q. It went through the first and around the second and into the third?—A. Yes, sir; and struck the third a few inches from the edge and a trifle below.

Q. Where did it strike the fourth?—A. We did not have but three partitions.

Q. And you do not know where it went?—A. No, sir. I know it did that, because after we fired each shot we went up and traced the course of a bullet and marked it with a pencil so that there could be no mistake.

By Senator FORAKER:

Q. From your experience and observation, would it be, in your judgment, possible to estimate the point from which a bullet was fired by trying to get an alignment from the different holes it had made in different partitions or different parts of a building?—A. No, sir; we tried that and could not do it.

Q. State, if the bullet goes through only one wall, whether or not you can get a correct alignment. Suppose it would just strike the outside of a house and go through it?—A. Yes, sir.

Q. Could you go inside and look through the hole that it made, if it was open enough so that you could look through it, and get a reliable indication from that as to the point from which the bullet was fired?—A. No, sir; we tried that. I fired the rifle myself, and the shot entered, and then Lieutenant Wiegenstein was down examining the hole, and I moved away from where I had been standing—I marked the spot so that we would know it again—and then I shouted to him to line me in through the hole, where I was standing, and he could not do it.

Q. That is, he could not line you in, although you were standing at the very spot from which you had fired?—A. No, sir; I had moved away.

Q. How would that indicate it? Was not that the reason that he could not line you, because you had moved away?—No, sir; because he lined me away from the place where the shot was really fired to another position.

Q. I do not understand you. He did, then, looking through the hole, see you at another point?—A. He could. He just motioned with his hand until I came within range of his vision.

Q. That is, you moved from one position to another until you came in range of his vision?—A. Yes, sir.

Q. How far was that from the point at which you had stood when you fired the shot?—A. That was about 10 feet, in 40 feet. I was only 40 feet away when I fired the shot.

Q. That is, the distance at which you fired the bullet was 40 feet?—A. Yes, sir.

Q. You had to move to the right or left a distance of 10 feet in order to get into line when he was sighting through the hole?—A. Yes, sir. Then we tried another experiment with the bullet grazing the partition, and we tried to sight along the groove made by it on the box, and we could locate objects anywhere within 100 yards.

Q. State what objects you were able to line off, if that is a correct expression.—A. The man who fired the rifle was 200 yards away from us, and right behind him was a water tank, and off to the right of the water tank, 80 or 90 yards, approximately, was the powder house, and then to the left of the water tank, probably the same distance, was the post chapel. Any of these points could be definitely located by sighting along that groove.

Q. That is, simply looking through that one groove you could see either one of these objects?—A. Yes, sir.

Q. And they were how far apart?—A. Practically 200 yards.

Q. The outside ones?—A. Yes, sir.

Senator FORAKER. I believe that is all.

By Senator WARNER:

Q. If, instead of a groove, that had penetrated a timber, could you have seen those objects, by looking through the hole made by the bullet, 200 yards apart?—A. With a thin piece of timber you probably could. With thick wood—we tried that through a piece of timber 4 by 8, and it was impossible to see through the hole at all. It was impossible to see daylight at the other end. Another bullet we fired through a piece of timber 4 by 8 took a straight course. We measured the angle from entry to exit, and we found that every one was deflected in traveling through the wood.

Q. But you have not answered my question. I do not mean to say that you do not want to answer it, Lieutenant.—A. I understand.

Q. But what I was trying to get at, to make myself understood, was, you have spoken about sighting through a groove.—A. Yes, sir.

Q. And the vision would extend over some 200 yards?—A. Yes, sir.

Q. So that you could not tell from what part of that range of 200 yards the gun had been fired. Do you mean to say that?—A. Yes, sir; I do.

Q. And you mean to say, also, if here was a target, part of it being a board 2 inches thick.—A. Two inches thick.

Q. And back of it 10 feet another board 2 inches thick.—A. Yes, sir.

Q. And it went through.—A. Yes, sir.

Q. That, taking the alignment of those two, you could see then a radius of 200 yards out in front?—A. No, sir; but what I did do—

Q. Wait a moment. I do not mean to cut you off, but I want to get at this, because I do not mean to ask you but a few questions. Could you form any idea of where that shot came from?—A. In our experiments we knew where the man was.

Q. But taking the illustration that I gave?—A. I would not state that.

Q. You could not tell whether you could or not?—A. No, sir. We knew where the man had been, and it was impressed on our minds before we tried it.

Q. Now, Lieutenant, you were asked, if a person should swear that they could observe certain appearances of a party, whether you would believe it. If you had been told of your inability to recognize these parties at the distance they were, on that character of a night, before your experiments, you would not have believed it?—A. No, sir.

Q. If a person had sworn to it you would have thought they were very much mistaken, would you not?—A. Yes, sir.

Q. I understand there that there were some 10 or 11 of those soldiers that you sent down?—A. Yes, sir; about 11.

Q. And you made these experiments of shooting in the arroyo, and then they were marched between the officers, the officers being on each side of a road 8 feet wide?—A. Approximately 8 feet wide.

Q. And the men were marched between?—A. Yes, sir.

Q. So that the men would be in the neighborhood of $3\frac{1}{2}$ feet—4 feet—from you?—A. Four feet; not more than 4 feet.

Q. A man taking up a part of the distance himself, you might put him within $3\frac{1}{2}$ feet of you?—A. Yes, sir.

Q. And there was bright moonlight then?—A. Yes, sir; the moon was one night in its first quarter.

Q. And you could not tell whether those were white men or black men?—A. No, sir.

Q. Could you tell the color of their uniforms?—A. No, sir.

Q. Could you tell whether they wore hats or caps?—A. You could tell that; yes, sir.

Q. That night was so bright that one of the officers there told you, did he not, that he could read a letter that he had?—A. He did do it. I saw him.

Q. He did do it. It was so bright there that night?—A. Yes, sir.

Q. Yet you could not see?—A. Yes, sir.

Q. Now, do you want this committee to understand, Lieutenant, that on a bright moonlight night, men standing 8 feet apart, to watch a marching line in the center 3 or 4 feet from them, in the streets of a city?—A. No, sir; not in the streets of a city.

Q. Wait until I get through. In the streets of a city, that they could not tell whether they were white or colored men?—A. In the streets of a city?

Q. In the bright moonlight?—A. But we were not in the streets of a city.

Q. I know, but you do not want to be understood as saying that any such thing would apply in the streets of a city?—A. No, sir; we did not make these experiments in the streets of a city.

Q. Do you want to be understood as saying that the same thing would apply in the streets of a town?—A. Yes, sir; this was in the streets of a town.

Q. What streets?—A. In the streets of Brownsville; in that alley; that it would happen there. We are willing to take the committee down there and show them that that is so.

Q. You are willing to take the committee down?—A. Yes, sir.

Q. What interest have you in taking the committee?—A. You seem to doubt me, sir; that is all. You seem to doubt what I say.

Q. Lieutenant, pardon me; I have asked no questions that doubted you, and you ought not to raise the doubt yourself.—A. I beg your pardon, then.

Q. I asked what interest you had in taking the committee down there.—A. None beyond that. The Senator, I thought, doubted my word, and I merely remarked that the same thing could be done again, and they could verify it.

Q. You said yourself that if somebody had told you this before your experiments you would have doubted it.—A. Yes, sir; that is why I was anxious to show the committee, if necessary.

Q. Yes.—A. That it actually happened.

Q. Yes. How would it have been on Elizabeth street or on Fourteenth street?—A. Practically the same.

Q. Practically the same as there in that arroyo?—A. Yes, sir.

Q. You are familiar with Elizabeth street?—A. Not thoroughly familiar with it. In that portion, yes, sir.

Q. Running out from the garrison?—A. Yes, sir.

Q. It is 60 feet wide, is it not; 50 or 60 feet? I do not know, Lieutenant.

Senator BULKELEY. He has not been in Brownsville?

Senator WARNER. Yes; he was stationed there.

The WITNESS. No; I was not stationed there, sir. I was not stationed there.

By Senator WARNER:

Q. Well, but you were there?—A. Yes, sir; I went there for that purpose.

Q. When did you go there?—A. I arrived there the 4th of March of this year.

Q. What for?—A. To examine the buildings.

Q. For whom?—A. For the benefit of Major Penrose.

Q. Who sent you there?—A. My commanding officer at Fort McIntosh, Major O'Neil.

Q. The officer who was here?—A. Yes, sir.

Q. What buildings did you examine there on the 4th of March?—A. I arrived the 4th of March, and the 5th of March I went around the town and I looked at the Miller Hotel and at the Garza building and the Cowen house and the telegraph office.

Q. You looked at the telegraph office?—A. Yes, sir.

Q. And the Leahy house?—A. Yes, sir.

Q. And the Wreford office?—A. No, sir; I did not examine that.

Senator FORAKER. The Wreford office?

Senator WARNER. Yes; the King Building.

Senator FORAKER. I want to say, Senator Warner, that I did not know that the witness had been to Brownsville until just now. That is the reason that I did not examine him on that.

By Senator WARNER:

Q. How long did you remain there?—A. I left the morning of the 8th.

Q. Did you testify before the court-martial as to the results of your experiments?—A. Of some of them. The remainder were objected to by the prosecution, and the court sustained the objections, so that the questions were not answered.

Q. Did you determine what kind of guns that firing had been done with in Brownsville?—A. No, sir.

Q. Could you tell?—A. No, sir. I saw only one bullet, that I took out of the Leahy house myself, and that was so battered up that it would be impossible with my experience that I have had, with the eye, to tell what it was.

Q. What did you do with that bullet?—A. I gave it to Captain Murphy, who was the assistant counsel for the accused in the Penrose court-martial.

Q. Could you tell anything about that bullet?—A. I could tell it had a steel jacket; that is practically all. That was all I got of it.

Q. Could you not tell the number of lands upon it?—A. No, sir; it was all battered up—all smashed up.

Q. But it was a steel jacket?—A. Yes, sir.

Q. It had been fired out of a high-power rifle?—A. I should judge so.

Q. Would you not know that?—A. No, sir.

Q. What other kind of gun could it have been fired out of?—A. I do not know. That is the reason I would not say that it could have been fired out of any other. All I got was this battered-up piece of steel.

Q. Did you notice the point of entrance?—A. Yes, sir.

Q. And the point of exit?—A. Yes, sir.

Q. How about the telegraph office?—A. I noticed a point, whether of entrance or exit I do not know; but I saw one mark up alongside of a window.

Q. And you saw another mark, did you not?—A. That was the only one I saw.

Q. You did not see where it went out?—A. No, sir; I did not go inside at all.

Q. You did not go inside?—A. No, sir; I did not go inside.

Q. You made no test of that?—A. No, sir; no test at all.

Q. Were you near enough to form any impression as to what kind of bullet made that?—A. No, sir; that was too high up. I did not attempt to.

Q. Where else did you go?—A. I went to the Garza house.

Q. You found evidences of shots there?—A. They showed me what they said was a bullet hole, but I do not believe it was. It gave me the impression of a hole made by a nail driven into the wood, because alongside of it was the impression that the head of a nail would have made being driven into the wood, and our bullets do not leave an impression like that.

Q. Who showed you that?—A. Mrs. Leahy.

Q. Did you find any others around the Leahy house?—A. That was not the Leahy house; that was the Garza house.

Q. Well?—A. In the Leahy house I found two bullets, and I took one out of there myself that evidently had been fired into the house. One had been taken out already.

Q. Where is that bullet?—A. I do not know.

Q. What did you do with it?—A. I took it and gave it to Captain Murphy. There were two shots. The other bullet was gone.

Q. What other one did you look at?—A. The Cowen house.

Q. Did you find a good many places there that had been fired into?—A. I found three places.

Q. Only three?—A. They told me there were some others. I tried to go in, but Mrs. Cowen would not let me examine them.

Q. Did you find those behind?—A. Yes, sir.

Q. Could you tell what kind of guns those shots were fired from?—A. No, sir; not having any bullets.

Q. You could not tell anything about them?—A. No, sir.

Q. They might have been high-power rifles?—A. They might have been high-power rifles.

Q. You talked around Brownsville a good deal?—A. No, sir; I talked with very few.

Q. You talked with very few?—A. Yes, sir. I did not care to let them know that I was there, only those I had to.

Q. Whom did you meet there?—A. Practically no one outside of Mrs. Leahy and Crixell, the saloon keeper, and the man who runs the Ruby saloon.

Q. Who was that?—A. Tillman or Tilton, or some such name.

Q. He knew what your business was there?—A. No, sir.

Q. You did not tell him?—A. No, sir; I just talked to him about it and he was perfectly willing to talk on and to tell me what he knew about it—everything that he knew.

Q. You learned from all those parties, at least, that they believed that the negro troops had done the shooting up of the town?—A. Yes, sir; they seemed to think so.

Q. Well, they impressed you that way?—A. Yes, sir; they did.

Q. They seemed to have no question about it?—A. No, sir; no doubt in their minds.

Q. You say you can take the committee down and show that the same conditions exist there in regard to the light that existed when those men marched between you there?—A. Yes, sir.

Q. Will you explain to the committee what were those surroundings and conditions when the men marched between you 8 feet apart?—A. We were up above the arroyo, on the ground.

Q. What was the nature of that road?—A. It was a sandy road, with mesquite—

Q. Was anything growing on either side?—A. Yes, sir; the mesquite brush was growing.

Q. How high was that mesquite brush?—A. All the way from 10 to 15 feet in places, I should say.

Q. It averaged all the way above your head, did it not?—A. Yes, sir; all the way.

Q. So that the mesquite brush on this road 8 feet wide was up above your head—that high?—A. Yes, sir.

Q. And that would be the same condition, you think, that would exist in the Cowen alley?—A. Yes, sir.

Q. What is the width of the Cowen alley?—A. It is about 20 feet wide.

Q. Twenty feet wide?—A. Yes, sir.

Q. How is the Cowen alley built up?—A. It is built up by the backs of houses.

Q. Are they continuous houses?—A. No, sir. They have a wooden fence there which is about 6 feet high, I should say.

Q. Yes; but the wooden fence would not obstruct the light. That is an open fence, is it not?—A. No, sir.

Q. Does that obstruct the light?—A. No, sir; but it is no open fence.

Q. You say it is no open fence; it is not enough to obstruct the light?—A. There is no light there to obstruct.

Q. Would it obstruct the light there if it was moonlight?—A. No, sir.

Q. If it was starlight, would it obstruct that?—A. No, sir.

Q. Why do you say, if this roadway was 8 feet wide, with the mesquite brush growing several feet above your head on each side, that the conditions there were the same as in the Cowen alley?—A. They are practically the same. The moon was almost overhead and shining down, so that the brush did not interfere with the light.

Q. The moon was overhead?—A. Almost overhead, shining right down, so that the brush did not affect the light at all.

Q. What time of the night was that?—A. Half past 8 in the evening.

Q. What day of the month?—A. February 8.

Q. Was Major O'Neil there at that test?—A. Yes, sir.

Q. That was the test at which Major O'Neil was present?—A. Yes, sir.

Q. The only one?—A. The only one at which he was present.

Q. The only one at which he was present?—A. Yes, sir.

Q. And you also had a test on the parade ground?—A. Yes, sir; we did.

Q. And there was lamplight there?—A. Yes, sir.

Q. And you could not tell parties 20 feet away?—A. I said 20 paces. That would be over 40 feet.

Q. Did you not finally come down to where they marched between you at a distance of 20 feet?—A. Yes, sir; we did.

Q. That is what I thought. Could you tell them 20 feet away?—A. No, sir. We lined them up afterwards on the parade ground and some of the officers passed by. Lieutenant Wiegenstein was with the men, and they failed to recognize him.

Q. At the time they passed by it was within a very few feet, was it not?—A. Yes, sir; the first time.

Q. And how near did the nearest come at that time, the first time?—A. When they were marching?

Q. Yes.—A. Not more than 10 feet.

Q. Was it as far as that?—A. It may not have been, but it was not more than that.

Q. And you could not tell whether they were white men or black men?—A. No, sir.

Q. You could not tell whether they had khaki uniform or blue

uniform?—A. We could tell that they had a dark coat, with lighter trousers.

Q. But the material you could not tell?—A. No, sir.

Q. Or whether they were soldiers or civilians you could not tell?—A. No, sir; it was impressed on us that they would be soldiers.

Q. I know, but from looking at them you could not tell?—A. No, sir.

Q. Could you tell whether they had guns or not?—A. Oh, yes, sir; we knew they had guns.

Q. But could you see?—A. We saw the guns.

Q. You could see the guns?—A. Yes, sir.

Q. You could see them plainly?—A. We could see the outline plainly; not enough to see a shotgun that was in the line.

Q. You could see something?—A. Yes, sir.

Q. That looked like a gun?—A. Yes, sir; the outline.

Q. But you could not tell whether it was a gun or a big stick?—A. Oh, yes; we handle guns every day and we know the difference between the silhouette of a gun and a stick.

Q. You were familiar with guns?—A. Yes, sir.

Q. If you had been there and had not been familiar with guns and not knowing they were soldiers passing by, could you have told that they were guns?—A. Yes, sir.

Q. Even then you could have told?—A. Yes, sir.

Q. But you had to go up within 2 or 3 feet of the men's faces, and then you could not tell what they were?—A. No, sir.

Q. On a bright starlight night?—A. Yes, sir.

Q. And those conditions, you think, would apply in the streets of a city?—A. In the streets of Brownsville, I am talking about.

Q. In the streets of Brownsville?—A. Yes, sir; that is, where this shooting was pointed out to me to have happened.

Q. On Elizabeth street or Thirteenth street or on Fourteenth street or on Garrison road; all those places?—A. Here is where they showed it to me, right in here [indicating on map].

Senator FORAKER. In the Cowen alley.

The WITNESS. In the Cowen alley.

By Senator WARNER:

Q. I know; but did you see the telegraph office?—A. Yes, sir; I saw that. But there was only one light there at the corner, and that shed a light I don't suppose more than 20 feet. It is a small lamp and not at all powerful.

Q. Do you want the committee to understand that in the Cowen alley, on a bright starlight night, coming within 2 or 3 feet of a man that you knew, you could not tell whether he was a negro or a white man?—A. Yes, sir.

Q. Do you know what lamps there were in the streets of Brownsville on the night of the 13th?—A. The 13th of August?

Q. Yes.—A. No, sir.

Q. Did you go around in March, when you were there, to see about what street lamps there were?—A. No, sir; but there is a lamp which I know is there now, which is not on that map, and that leads me to believe that it has probably been changed or some added since *that*.

Q. Where was that light?—A. That was at the corner of this street, I believe [indicating].

Q. The corner of Washington street and Garrison road?—A. Yes, sir; and Garrison road, as I remember it now.

Q. We have never had those lamps accurately pointed out to us. I do not know whether they are right or not.—A. That is one lamp that is on that Garrison road that is not shown on this map.

By the CHAIRMAN:

Q. The map is supposed to indicate the lamps by those stars in red. Do you know of any other lamps which are not indicated on the map?—A. Yes, sir; one that I believe to be here [indicating].

Q. That is one?—A. Yes, sir; that is one.

Q. Do you know of any others that are not shown on that map?—A. No, sir.

By Senator WARNER:

Q. That does not show any street lamp—this map does not show any street lamp—there at the point you have pointed to?—A. No, sir.

Senator OVERMAN. There is a black mark there.

Senator WARNER. No; there is nothing there at all.

By Senator WARNER:

Q. You say at the corner there where the red star is there is a lamp?—A. Yes, sir.

Q. But there is no street lamp at that place that you have just pointed to?—A. No, sir; that is why I say I think conditions have been changed since the night of the 13th of last August.

Q. Yes. Did you make sufficient observation there—if not I will not bother about it—to say as to the location of the other lamps marked there with stars on that map?—A. No, sir; I did not. I just confined my observations around this location [indicating on map].

By Senator FORAKER:

Q. What kind of a light is that that is burning in those lamps?—A. It is an oil lamp.

Q. About what candlepower?—A. I would not say that. It is not very strong.

Q. How are the lamps protected from the wind and the weather?—A. They have a large square lamp which flares out toward the top, and, as I remember now, a little lamp that sits inside of that.

Q. So that the light shines through two?—A. Through two glasses; yes, sir.

Q. Now, assuming that there is a lamp there, about how far in each direction around it would that light light up?—A. A radius of about 20 feet.

Q. About 20 feet?—A. Yes, sir; from it.

Q. Do you know how long those blocks are? By taking that rule there, which is right on the table before you, you can measure it. The scale of the map is 30 feet to the inch. I will not bother you about that.—A. This would make what I consider a good-sized city block, from there to this point, the telegraph office [indicating on map].

Q. I think it is about 300 feet. I did not know whether you had measured it. Now, you were ordered to go there?—A. Yes, sir.

Q. You did not go there on your own motion?—A. No, sir.

Q. You were ordered to come here, were you not?—A. Yes, sir.

Q. You were ordered to make these experiments, were you not?—A. Yes, sir.

Q. Had you any personal interest in this matter at any time?—A. No, sir.

Q. Have you now?—A. No, sir.

Q. You are here giving us the results of the experiments that you have actually made?—A. Yes, sir.

Q. And every other officer who participated with you in those experiments as an observer—I refer now particularly to Lieutenant Wiegenstein—agreed with you as to the results?—A. Yes, sir.

Q. You yourself were surprised, I understand you to say?—A. Yes, sir; very much so.

Q. You had no idea but what you could recognize men in the dark more readily than it seems possible to do?—A. Yes, sir.

Q. Now, as to these different houses. You say you went to the Cowen house and saw three bullet holes?—A. Yes, sir.

Q. And you did not go in because Mrs. Cowen refused to let you go in?—A. She did not refuse. The first time I went she said she was giving some music lessons and I would have to come back again, and the next time I went she said she had been away for a week and had not cleaned up, and would not care to show me in on that account.

Q. At any rate you did not go in?—A. No, sir; I did not go in.

Q. Did you examine the bullet holes you did see sufficiently to be able to tell us from which side of the house those shots were fired into the house?—A. Yes, sir.

Q. Whether from the alley, or from Fourteenth street, or from where?—A. There were two from the alley, and the other, it would be hard to tell just where it was fired from. I could not discover for this reason: Mrs. Leahy has another house here.

Q. The Leahy house is on the other side, here [indicating on map]?—A. Yes; over here; but she has another house here [indicating].

Q. Mrs. Leahy has another house here that is not indicated on the map?—A. It is not indicated at all. Now, the distance between this wall of the Cowen house and the inner wall of the Leahy house is not more than 15 feet; just a small pathway down between them, with a fence. I saw where a bullet had gone out of this wall and had gone right in through the Leahy house, on this side [indicating].

Q. Were you permitted to examine that bullet hole?—A. Yes, sir.

Q. With what result? Where did you locate, if you could tell, the party who had fired it, when it was fired into? Where did the shot seem to have come from?—A. It was almost impossible to tell. If it came at all it would have come, I should have said, from the direction of the alley—from straight over here, and come right through [indicating].

Q. And gone into the other house?—A. Yes, sir; but it could not have done that; the bullet was too high. It must have been deflected up at a great angle if it did so.

Q. How high up was the bullet when it struck the Leahy house?—A. About 12 or 13 feet.

Q. Now go down to the Garza house.—A. Yes, sir.

Q. You say you had a bullet hole pointed out to you there, which you said you concluded was a nail hole?—A. It could have been made by a large-sized nail.

Q. What hole was that? Where was it located?—A. That was on this corner of the building, within 3½ or 4 feet of the ground.

Q. That was not the shot that we have been told went into the foundation?—A. No, sir.

Q. We have been told there were two bullets fired into the Garza house, one striking the foundation and one striking the woodwork of the house.—A. This struck the woodwork.

Q. Did you go in the house?—A. I tried to get in, but a Mexican woman there would not let me.

Q. You tried to go in?—A. Yes, sir. I asked her for the bullet, and she said she did not know where it was.

Q. You did not see that?—A. No, sir.

Q. Did you examine those bullet holes enough to know whether any of them could have been fired from B barracks?—A. I know that none of those I have described could have been.

Q. Did you go down to the Starck house and make an examination there?—A. The Starck house?

Q. To reach that house I understand you go down beyond the Miller Hotel and turn to the right and then to the left.—A. No; I did not go there.

Q. You did not go to that house?—A. No, sir.

Q. Did you examine the bullet holes in the Miller Hotel?—A. No, sir; they were a little too high up above the ground. They had been dug out, so that there were large holes there.

Q. Did you make any further investigation there that we should know about?—A. Yes, sir. So far as seeing hat cords is concerned, the police wore them.

Q. Hat cords?—A. Yes, sir; on campaign hats.

Q. What kind of uniform were the police wearing when you were there?—A. They were wearing blue uniforms.

Q. You were there last March?—A. Yes, sir; last month.

Q. Yes; last month. What kind of hat did they wear?—A. A Stetson hat.

Q. A gray or a black?—A. Both.

Q. What kind of hats do the police wear?—A. The ones I saw were black. At night I sat in my room in the Leahy House, which is not marked here, and I watched the people passing by, and I waited for some one to pass to see if I could tell about the hat, and I saw the outline of the hat, and the outline was like that of the campaign hats, and they would have passed for campaign hats.

Q. What kind of a night was it; was it an unusually dark night, such as we are told the night of August 13 was?—A. No, sir.

Q. You did not see anybody shooting there?—A. No, sir.

Q. You did not have any observation of the effects of the flash of a gun?—A. Not at that place.

Q. Is that a dark alley—the Cowen alley?—A. Yes, sir.

Q. Very dark?—A. Yes, sir.

Q. There are no lamps whatever in it?—A. No, sir.

Q. The lamplights are only on the main streets?—A. Yes, sir.

Q. And they are at the corners only?—A. As far as I know. I

know that these two marked on Elizabeth street are correct [indicating], and then there is one over there [indicating].

By Senator WARNER:

Q. How was it that you came to say here "As far as seeing hat cords was concerned?"—A. I was asked, I believe, in the examination if I could distinguish the hat and the cord by the flash of a rifle.

Q. That was some time ago?—A. Yes, sir.

Q. That is the reason you mentioned that?—A. Yes, sir.

Q. You say the prevailing kind of hat there was the Stetson?—A. That style; yes, sir; the Stetson.

Q. And you saw one one night?—A. Yes, sir; I saw several. Nearly everyone in town wore them.

Q. Where were you the night you saw this one?—A. I was sitting in my house—in my room in the hotel.

Q. How far were those parties wearing those hats?—A. Not more than 12 feet away, passing by on the street.

Q. On the street?—A. Yes, sir.

Q. Were they policemen?—A. I do not know who they were, sir. There was a fence came a little too high for me to observe who they were, or whether men or women; but the hat and top of the head could be seen over the top of the fence.

Q. Was that a moonlight night?—A. No, sir; it was not.

Q. Was it a starlight night?—A. Yes, sir.

Q. And you were sitting in your room?—A. Yes, sir. The only thing between us was the screen in the window.

Q. A mosquito bar?—A. Yes, sir.

Q. So that that would shade partly. And how far were you from this party with this hat?—A. About 12 feet, I suppose.

Q. What was the color of that hat?—A. I could not tell. All I saw was the outline of it as it was passing.

Q. What was the color of the hat?—A. I could not tell.

Q. I thought you said it was gray?—A. No, sir; you could not tell the difference in the colors; just the outline of it.

Q. The Mexican woman did not let you go into her house?—A. No, sir; she did not speak English well enough to understand me.

Q. You had not been introduced to the lady?—A. Yes, sir.

Q. And you did not think it unreasonable that she did not allow you to come in?—A. Mrs. Leahy took me over there and introduced me to the woman.

Q. She took you over there?—A. Yes, sir; she just said that I was looking around.

Q. Mrs. Leahy showed you every courtesy she could?—A. Yes, sir.

Q. She seemed to be very much of a lady, and gave you every assistance she could in the matter?—A. Yes, sir.

Q. But the Mexican woman did not take to you kindly, and did not let you in?—A. No, sir.

Senator BULKELEY. Perhaps she did not understand him.

The WITNESS. I did not understand her.

By Senator OVERMAN:

Q. Did Mrs. Leahy know who you were?—A. No, sir.

Q. You did not tell her?—A. No, sir.

Q. Did you tell her your name?—A. Before I left I did.

Q. Did she know your name before you left?—A. Yes, sir; she knew that before I left.

Q. How long before you left?—A. The morning I went away.

Q. You were there several days without telling her your name?—A. Yes, sir.

Q. How did you register?—A. I registered under another name.

Q. You registered under an assumed name?—A. Yes, sir.

Q. Why did you do that?—A. Because I did not think it was advisable to let the Brownsville people know that an officer of the Twenty-fifth Infantry was down there investigating.

Q. You were there under an alias?—A. Yes, sir.

Q. You were there to get testimony, as far as you could, to show that these negroes did this shooting?—A. No, sir; to find out the true cause of it; to find out anything I could. That was all.

Q. You did not examine the Yturria house?—A. No, sir.

Q. You did not go there?—A. I did not know that it was shot into.

Q. Did you go to the Miller house?—A. Yes, sir.

Q. You are satisfied, then; from what you have seen and know, that if 10 respectable people should come before this committee and swear that they recognized these men that night, still you would not believe they were telling the truth about it, would you?—A. I know now that they could not.

By Senator FORAKER:

Q. Referring to the bullet that you took out of the Leahy Hotel, where did you find that—in which one of those houses?—A. On the other side—on this house here.

Q. On the one that is shown on that map?—A. On the one that is shown on the map; yes, sir. Then there was also a hole in the house over there [indicating].

Q. Where did you find this bullet in that hotel?—A. Up on the second story. I had to take a ladder and place it on a table to dig it out.

Q. Up on the second story?—A. Yes, sir.

Q. Did you find where it entered the house?—A. Facing the alley.

Q. From the alley side?—A. Yes, sir.

Q. How many walls had it gone through?—A. It did not go through any. It only went through the thickness of one brick.

Q. That is a brick house?—A. A brick house.

Q. And it had gone through the brick and was lodged in the brick wall?—A. Yes, sir.

Q. How did you know there was a bullet hole there?—A. They showed it to me.

Q. Who showed it to you?—A. Mrs. Leahy.

Q. Did she give you permission to dig it out?—A. She certainly did.

Q. From the outside?—A. Yes, sir; from the outside. I placed a ladder on a table and went up.

Q. And you could not tell anything about the bullet except that it had a steel jacket?—A. It had a steel jacket.

Q. It was all smashed up?—A. Yes, sir.

By Senator OVERMAN :

Q. I would like to know under what assumed name you were there—what assumed name you took in Brownsville?—A. Is it necessary for you to know that?

Q. Yes; I want to know.—A. Blackburn.

Q. What Blackburn?—A. Just Mr. Blackburn.

Q. Well, George Blackburn?—A. James.

Q. You registered as James Blackburn, and talked to Mrs. Leahy as James Blackburn?—A. Yes, sir.

Q. Did you tell her where you came from?—A. I did not tell anything except what I had to.

By Senator FORAKER :

Q. You told her who you were before you came away?—A. Yes, sir; before I came away.

By Senator WARNER :

Q. One question with reference to that bullet that you took out of the Leahy House.—A. Yes, sir.

Q. Could you state where the party was with the gun from which that bullet was discharged?—A. No, sir. The only way that you could tell, this was the end of the house here and the bullet hole was in that end [indicating on map], so that it could not have been fired from these three sides [indicating].

Q. Or anywhere.—A. Anywhere from this way [indicating].

Q. Or the alley?—A. No, sir; it could not have been fired from there at all.

Q. Why not?—A. Because the edge of that building is there and it would have glanced off.

Q. It might have been out on Fourteenth street, because the deflection of the bullet might have taken it there?—A. No, sir; but that was in the center of the building.

Q. If the bullet is in the center of a building it makes a difference?—A. Yes, sir; if you are in the alley down here, if it strikes anything here it is going to glance off, but this was straight in [indicating].

Q. But, Lieutenant, just a moment. As I understood, it was this way. We will take these three books—please hold that book, there.—A. Yes, sir.

Q. Now, I understand that in one of your experiments a bullet went through here, and came around the corner of this second partition, and hit here in the third one [indicating with books], in one of the tests that you made?—A. Just grazed around, and deflected around 2 inches.

Q. And came back [indicating]?—A. Yes, sir.

By Senator OVERMAN :

Q. How far apart were those?—A. The partitions?

Q. Yes.—A. About 12 feet.

By Senator WARNER :

Q. But from those experiments and those erratic results, could you determine in Brownsville where these bullets came from?—A. No, sir.

Q. You shot around the corner, in the way you have described it—I believe I used the expression you shot around the corner. You could not tell, from the place that bullet entered, where it was shot from?—A. Yes, sir; but in our experiments when the bullet entered brickwork it was always embedded in it, and it could not deflect. In wood it was always deflected, but in brickwork it always stuck.

Q. It is not deflected at all when it strikes brick?—A. It does not deflect at all.

Q. How is it when it strikes plastering?—A. It is deflected. We tried that with a thin partition of lath and plaster, and the ball would be deflected.

Q. But in brick it would strike and be embedded, and would not be deflected?—A. Yes, sir.

Q. So that although the deflection was so much in solid wood, in some way or other this bullet was not deflected?—A. Yes, sir.

Q. You knew that was from a high-power rifle, did you not?—A. We never got any bullets fired through wood alone. They all kept on going, and we had to put up something else to stop them.

Q. I am asking you about this bullet fired through lath and plaster.—A. Yes, sir.

Q. You knew that was from a high-power gun?—A. Yes, sir.

Q. And that would be the same way when it went through this partition of lath and plaster?—A. Yes, sir.

Senator WARNER. That is all.

By the CHAIRMAN:

Q. You speak of wearing Stetson hats. By "Stetson hats" do you mean to designate the manufacturer?—A. No, sir; the style.

Q. Do you mean by that that Stetson hats are all the same style?—A. Oh, no, sir; the Stetson hat I refer to is the Stetson hat of the Army, that the officers wear.

Q. As a matter of fact, the Stetson hat is of various shapes, is it not?—A. Yes, sir; I just said that to describe the general style of them.

Q. Do you want us to understand that they were army hats?—A. No, sir; shaped like army hats.

By Senator WARNER:

Q. Slouch hats?—A. Yes, sir.

By the CHAIRMAN:

Q. That is very indefinite, because there are many manufacturers and many slouch hats.—A. Yes, sir.

Q. They were a stiff-brimmed hat or a soft-brimmed hat?—A. They were some soft and some stiff and some a little wider than others.

Q. Then they were not all of the same style?—A. No, sir. I just used the term "Stetson" for want of a better word.

Q. As we do on the plains when we say a "cowboy hat;" there are some low crowns and some high crowns, and some narrow brim and some broad brim, and some soft rim and some stiff rim, and so on?—A. Yes, sir.

Q. Those hats do not usually carry a rope or round hatband, do they, unless designed for the Army?—A. The hatband?

Q. The hats that are sold as hats for citizens have a flat band usually?—A. Yes, sir.

Q. But the ones for the Army have a cord?—A. Yes, sir; but that is different.

Q. The cord is a separate fixture?—A. Yes, sir. But, as I say, the police also wear the cord.

Q. You said something about being denied admittance by this Mexican woman?—A. Yes, sir.

Q. Could she talk English, or could you talk Mexican?—A. No, sir.

Q. Neither one?—A. No, sir. Mrs. Leahy took me over and told her what I wanted, but she passed it off.

Q. According to your observation, is the Mexican, or rather the Spanish, language spoken very much among the white people?—A. Yes, sir; it is.

Q. It is rather general, then, to speak Spanish?—A. Yes, sir.

Q. So as to converse with the Mexicans?—A. Yes, sir.

Q. And, on the other hand, the Mexicans, a good many of them, converse in English a good deal?—A. Not so much that way as the opposite way. The Mexican language is the more common language.

Q. But between the two they understand each other pretty well?—A. Yes, sir. Some places you find where they speak Mexican entirely, and then the Americans have to speak Mexican.

Q. But as a general rule they understand each other pretty well and get along very well?—A. Yes, sir.

By Senator BULKELEY:

Q. How long have you been stationed there, along the Rio Grande?—A. I arrived at Fort McIntosh the 28th of July of last year, I believe.

Q. Are you familiar with the people—the Mexicans?—A. Yes, sir.

Q. I mean you are familiar with their appearance?—A. Yes, sir.

Q. Are they a dark-complexioned people?—A. Well, all kinds. There are some light and some rather dark.

Q. Just the same as among the colored people?—A. Yes, sir. They are not so dark as the colored people, as a rule. The majority of them are not so dark.

Q. We have a good many light colored people?—A. Yes; we have a good many light colored people, but the majority of the colored people are rather dark.

Q. Yes; but you have some light colored people in your command?—A. Yes, sir; some men who would pass for white men, any place.

Q. How would they compare with the Spaniards or Mexicans?—A. Very well.

Q. I mean as to the complexion.—A. We have some men in the command that have been taken for white men.

Q. So that it would be pretty difficult, under any ordinary circumstances, to distinguish in passing along hurriedly, along the street, by their complexion?—A. Yes, sir; you could not tell very well.

Q. You could not tell very well?—A. No, sir.

Q. Whether it was a Mexican or a half breed or a light colored fellow?—A. No, sir; provided they were dressed alike.

Q. I say from their complexion alone you could not distinguish between them?—A. No, sir.

Q. How are Mexicans, in stature, generally?—A. Some small and some stout and some large.

Q. But generally?—A. Generally, I would say they were rather undersized.

Senator BULKELEY. I thought so.

By Senator SCOTT:

Q. Lieutenant, from your knowledge and from the experiments, as I suppose you call them, that you made on these men in the moonlight, and in the dark, and from all the other evidence that has been presented to you, either in the Penrose court-martial or what you have read here, what is your present opinion or judgment as to whether these soldiers shot up that town that night?—A. Well, I should say that I have not decided. If sufficient evidence was brought up to prove that they did it, I would believe it; and again, if there was not sufficient evidence I would not believe it. My mind is open.

Q. From the evidence that you have had at the present time, what is your opinion?—A. The condition of my mind is that it will receive more evidence yet. It is open, in other words.

Q. You would not give an opinion as to whether they did or did not?—A. Well, if I had to decide upon it, I could not find them guilty, for the reason that I have not made up my mind that they did it.

By Senator OVERMAN:

Q. You would give them the benefit of the reasonable doubt?—A. Yes, sir.

By Senator SCOTT:

Q. I suppose that if you have not made up your mind as to that, you have not made up your mind as to who did the shooting?—A. No, sir.

By Senator FORAKER:

Q. You do not pretend to have any knowledge whatever about the shooting?—A. No, sir; none whatever. I was not there.

(Witness excused.)

(At 4.20 o'clock p. m. the committee adjourned until to-morrow, Friday, April 5, 1907, at 11 o'clock a. m.)

COMMITTEE ON MILITARY AFFAIRS,
UNITED STATES SENATE,
Friday, April 5, 1907.

The committee met at 11 o'clock a. m.

Present: Senators Scott (acting chairman), Foraker, Hemenway, Bulkeley, Warner, Pettus, and Overman.

TESTIMONY OF MAJ. JOSEPH PATRICK O'NEIL, U. S. ARMY—
Recalled.

By Senator WARNER:

Q. Major, this test that you made, you made it for your own—
A. For my own personal satisfaction. Now, I want to say that this test was for my own satisfaction; that I had ordered the officers to make a test. It developed that it was for the use of Major Penrose's court.

Q. You did not know that?—A. When I started in I had no idea of it. After these experiments started one of Major Penrose's counsel said that they were very important and very good, and asked that they be continued.

Q. That is all the interest you had in this, Major?—A. That is all the interest I had.

Q. Of course, as a brother officer, you wanted to do what you could, in justice?—A. Well, the gist of this was, Senator, that I heard expressions from Brownsville people saying that these were dirty, slovenly, insubordinate negroes, and I wanted to see how near all their statements came to the truth.

Q. Where did you see those statements?—A. In the newspapers.

Q. In any evidence?—A. I have seen no evidence about the case.

Q. You do not know that anybody swore to the fact that these were dirty, slovenly negroes?—A. No, sir.

Q. You would not pretend to say, Major, that this test that you made would apply to seeing people in the streets of a city?—A. They would not hold in a city lighted like Washington or Chicago or New York, in a well-lighted city.

Q. Would they hold upon any open street?—A. That depends, Senator, upon the amount of light you would have in the street.

Q. Well, but when you had a moonlight by which you could read a typewritten letter?—A. That I can not say. All that I can say is what I saw.

Q. We have got that, and I do not care about going over that, Major. Would you give it as your opinion that if you would meet a person on the streets of a village when the moon was shining so bright that you could read a typewritten letter you could not tell whether he was a white man or a colored man at a distance of 6 feet?—A. If the light was the same as the light that I experimented by, I do not see why there should be any difference between the streets of a city and the open country.

Q. But you were looking down into a ditch about 22 feet deep and 20-odd feet wide?—A. Yes; the nearest I was at that time was 18 feet away.

Q. When they came up out of there and you made this next test, *it was in a road 8 or 10 feet wide, with chaparral on each side, over*

the heads of the men?—A. Not exactly over the heads, but higher than the heads of the men. The men were in the road.

Q. And the officers were on each side of the road, and the men passed in the center?—A. No, sir; as I remember it, the officers were on one side of the road and the men passed by.

Q. How far from you?—A. As I said, I should judge about 5 or 6 feet. The road could not have been more than 8 or 10 feet wide. It was nothing but a dump-cart road.

Q. And those men were within how many feet of you?—A. Well, I should guess within about 5 or 6 feet. I should say about 5 or 6 feet.

Q. Yes. Did you ever make that experiment in a street?—A. No, sir.

Q. Or under similar conditions that existed at Brownsville?—A. No, sir.

Q. No. Now, you made an experiment with firing, you say?—A. No, sir; I went down for a few moments where the experiments with firing bullets and tracing bullets and marking bullets were being carried out.

Q. Did you take any special notice of that?—A. Only in glancing through bullet holes to see if I could locate the point from which the shot had come.

Q. If a bullet went through an inch thickness and you got just the direction of that bullet when it went through, and then it went through another board or any substance 10 or 12 feet away, and you got the direction of that, and the direction of each was the same, do you mean to say that you could not tell the direction from which that bullet was fired?—A. That is, if both holes were in the same straight line?

Q. Yes.—A. Well, any two points, Senator, can be in a straight line.

Q. But if the course of the bullet through the substance was in the same angle of line, in each place, could you not state then the direction from which that bullet was shot?—A. Do I understand you to mean that the bullet hits this board perpendicularly?

Q. Take it perpendicularly, if you please, and it goes through in a line.—A. And then hits another board parallel to that and goes through that perpendicularly?

Q. And goes through in a straight line.—A. Yes; and goes through in a straight line. You have two points in one straight line, and it is an easy problem to locate the third point.

Q. From that?—A. From that.

Q. Yes.—A. But it is a question where you will find the bullets to do it.

Q. Yes; I know, but I am taking it in that condition. You could locate it in that case?—A. Yes, sir. If two surfaces are parallel to each other and a bullet goes through these two surfaces in the same plane, why, it would probably be very easy to locate the third point in that line.

Q. Yes. Now, assuming that they did not go through perpendicular, as you say, but each opening made was at an angle of 45 degrees, and you traced it, would not the same results follow, whether or not it went directly through or went at an angle, if both went on the same line?—A. I believe, sir, if you took and laid out those holes

at exactly 45 degrees, that there would be no difficulty in locating a third point in that line.

Q. The third point. I mean the direction from which that rifle was fired.—A. If you laid those points out mathematically, I do not suppose there would be any difficulty in finding the third point.

Q. And if in locating the third point, it pointed to a certain spot, for instance on the second porch of the house, you do not think there would be any difficulty in doing that, whether it was on the second porch of the house or the first porch of the house or the third porch of the house? That would make no difference?—A. Now, we are taking two points in a straight line, to locate the third point.

Q. Yes.—A. Bullet holes are entirely different. A bullet hole is like the peep sight of a rifle. You have not got a small point. If you look through the bullet hole, you cover, not a point on the ground, but you cover ground, in a radius, with a diameter of maybe 6 feet or maybe 16 feet.

Q. Well, whatever that diameter was, whether 6 feet or 16 feet, you could locate it within that diameter?—A. With the proposition that you make, that you have two points in a straight line, you can locate the third point in every case. That is a mathematical problem that you can demonstrate at any time.

Q. I assume so. Now, you spoke of the tumbling of a bullet. What do you mean by the tumbling of a bullet?—A. I did not mean to give it exactly that name, "tumbling."

Q. That was the expression, I think, that you used.—A. The ordinary acceptance of the term "tumbling" is when the bullet makes a complete revolution [witness illustrating].

Q. It goes end over end?—A. It goes end over end. I did not intend to use that term. When I spoke about the tumbling, I simply intended to try and show that the rear end of the bullet tried to progress faster than the front end of the bullet, and made the bullet unsteady in its flight.

Q. Is not the very purpose of the rifling in the bore of the rifle to accelerate its force and to give the bullet a rotary motion? Does it go straight out of the barrel, or when the bullet goes out, does it turn?—A. The bullet has a rotary motion going out.

Q. It has got it?—A. Yes, sir.

Q. And it has got to have that rotary motion when it emerges from the gun?—A. From the muzzle; yes, sir.

Q. So that there is no tumbling?—A. Well, the bullet of our new rifle goes with such immense velocity when it leaves the muzzle that it does not get its ordinary speed, you might say, or its ordinary course, until it gets about 300 yards away from the rifle.

Q. Yes; I know; but answer my question. There is no tumbling of the bullet?—A. There is no complete turning over; no, sir.

Q. All there is is this rotary motion?—A. Well, there is a rotary motion, and you can not—well, it is simply my opinion that the bullet is unsteady.

Q. Yes.—A. Speaking about the rifling, they have a new invention by which the gas escapes from the muzzle—but we do not use that in our rifle—to take up that to a considerable extent.

Q. But, as you said in your testimony, there is no telling just where a bullet will go when it strikes any substance?—A. I believe that a suspended piece of silk would deflect the bullet of our new rifle.

Q. Yes. And while the bullet of the new rifle penetrates through so many thicknesses of wood, yet sometimes it will go through simply a partition and stop at the next thin partition, will it not?—A. That is possible.

Q. Not only possible, but do you not know that it is the case?—A. Go through one partition straight and stop in the next partition?

Q. By being deflected, or for some cause, just stop in the next partition?—A. Yes, sir.

Q. Although a bullet sometimes might go through 18 or 20 inches of solid wood?—A. Yes, sir; I have often picked bullets out.

Q. Yes. I do not know that it is in this evidence, but I think you said you could see from the hips down from the flashes of the gun when it was fired?—A. Well, I felt that I could recognize the leggings and the trousers.

Q. Why was that?—A. I can not say.

Q. And how were the men discharging their pieces?—A. The pieces appeared to be slightly inclined above the horizontal.

Q. I know; but were they discharging from the shoulder or from the hip?—A. There were some being discharged from the shoulder and some being discharged from the hip. I was told that. I could not see where the pieces were.

Q. I know; but that is what you learned—that they were discharged from the hip?—A. Yes, sir; I was told so.

Q. You were told by the officers?—A. Yes, sir; I was told by the officers.

Q. That is a new way, comparatively, in recent years, of discharging a gun, is it not?—A. No, sir; it is not an authorized position. It is a position to be frowned down upon; nothing but a waste of ammunition.

Q. Some of these guns were fired that way, as you were told afterwards?—A. I learned afterwards that they were.

Q. These were men of what company?—A. I do not know, sir, what companies they belonged to. There was only one man, and he belonged to K Company—

Q. They belonged to the Twenty-fifth Infantry?—A. Yes, sir; they belonged to the Twenty-fifth Infantry.

By Senator OVERMAN:

Q. Who selected those men?—A. Lieutenant Wiegenstein.

Q. Did he select them promiscuously, or did he select certain men that had certain complexions?—A. I did not ask him how he selected them; but the men were of all sorts of complexions.

Q. You saw them?—A. Yes, sir; I saw them after the experiments were over. I went up and down the line twice.

Q. What time of night was it you saw them?—A. It was some time between half past 8 and 10.

Q. Where did you see them?—A. On the road—on this road I was speaking about.

Q. Then you recognized them, did you?—A. I recognized some of them. I did not recognize all of them.

Q. And you could tell the complexions?—A. Yes, sir; I could tell a light colored man from a dark colored man.

Q. Then you could tell a white man from a colored man?—A. I had to go and look particularly. That is why I made two inspections.

By Senator SCOTT:

Q. How close were you to the men when you went down the line?—A. Sir?

Q. You say when you went down the line you could tell their complexions. How close were you to them when you went down the line?—A. Well, I should say 5 or 6 feet.

Q. I thought they were away off from you?—A. No, sir.

Senator OVERMAN. No; when it was 5 feet he said that he could tell them, and they had not been selected, because there were some light and some dark complexioned.

By Senator OVERMAN:

Q. If you could tell a light man from a dark man, why could you not tell a black man from a light-complexioned man?—A. The reason is because I had ordered a white man to be in that experiment that night, and the first time I inspected them I did not find the white man there.

Q. Do you pretend to say—I do not want to misunderstand you—that you could tell a light-complexioned man from a dark-complexioned man, and yet you could not tell a white man from a black man?—A. Why, Senator, among the colored men there are some jet-black men and there are some rather light men.

Q. We agree on that.—A. And if you go close to them and look into their faces you can tell black from yellow.

Q. Certainly. Could you not tell black from white?—A. The white man I passed looked so much like a yellow man that I passed him entirely.

Q. You could tell a yellow man from a black man, then, could you?—A. You could tell a yellow man from a black man.

Q. Then could you not tell a white man from a black man? If you could tell a yellow man from a black man, could you not tell a white man from a black man?—A. You could tell a white man from a man who would make a hole in a dark night; yes, sir; but negroes are of all colors and shades.

Q. Yes; we agree on that. But suppose in that squad there were some black men—Africans, no white blood in them—you say you could tell a yellow man from one of these Africans. Now, I will ask you the question again, could you not tell a white man, an Anglo-Saxon, from a negro, a pure negro, at that distance?—A. Yes, sir; you could tell a white man from a pure negro.

Q. Yes.—A. I could also have told a mulatto from a pure negro, but I could not distinguish a white man from a mulatto; that is, I was looking to find out who were the negroes. I use that as a generic term.

Q. In other words, you could not distinguish the different shades of color, a yellow man from a dark-complexioned white man, of course?—A. No.

Q. That is what you mean?—A. That is what I intend to convey.

Q. Yes.—A. I was simply looking for negroes and nonnegroes. I used "negroes" as a generic term.

Q. We understand each other now. Did you send Lieutenant Blyth to Brownsville?—A. Yes, sir.

Q. You ordered him there?—A. Yes, sir.

Q. Did you order him to take an assumed name?—A. No, sir; I did tell him that I wanted him to go there incog.; that I did not want his presence there known. I told him that he could do just exactly what he pleased.

Q. By your orders he went?—A. Yes, sir.

Q. You told him to go incog., but you did not tell him to take an assumed name?—A. I told him to go incog., and I did not want it known that he was there; and I also sent letters to him, and I would not send them to Brownsville, but I sent them to Matamoras, the Mexican town across the river.

Q. Did you direct those letters to Lieutenant Blyth or to Mr. Blackburn?—A. I addressed them to Lieutenant Blyth.

Q. You did not address them to Mr. James Blackburn?—A. No, sir.

Q. Why did you want him to go there?—A. The judge-advocate of Major Penrose's court sent a telegram to me and stated that they had information that there were bullet holes in the walls.

Q. Let us get that correct. Do you mean that the judge-advocate telegraphed you, or Major Penrose's attorney did so?—A. I meant that Major Penrose's counsel did so.

Q. You said the judge-advocate.—A. I meant Major Penrose's counsel. He said that there were bullet holes in the walls and he thought bullet holes in one of the barracks, and he wanted that verified and would like Lieutenant Blyth to look at them to see if those holes were there. That is the principal point, I think.

Q. Did Lieutenant Blyth report to you what he found?—A. No, sir. I changed stations at that time from Fort McIntosh, and when I was going through I met Mr. Blyth in consultation with Colonel Glenn and Major Penrose; but as he had accomplished what I wanted there was no need of his reporting.

Q. Who was Colonel Glenn?—A. Major Penrose's counsel.

Q. Lieutenant Blyth was to go there and try to verify what he thought was a bullet hole in the barracks. That was one of the things?—A. Yes, sir. The report came down as to the shooting, from Brownsville, that there were bullet holes in the walls of the fort and bullet holes in one of the barracks.

Q. He did not find any in the barracks?—A. I do not know, sir. He did not say anything about it to me.

Q. If he had found bullet holes in the walls or in the barracks, he would have reported it to you, would he not?—A. I doubt it, because I saw him in that room, in that office, about five minutes, and I was not his commanding officer any longer and had no control over him.

Q. If he had found any such thing, when he was sworn here to tell the truth, the whole truth, and nothing but the truth, when he was here the other day, do you not think that he would have told it?—A. I should think he would.

Q. And the fact that he did not testify about it would indicate to

you that he did not find any such thing?—A. I do not know whether he was asked to tell about that or not.

Q. He was asked to tell the truth, and if he found any of these holes do you not think that is a very important question, and that he would have told it if he had found it?—A. I do not know what he was asked and I do not know anything about what he testified.

Q. You know that he did not testify about that?—A. I do not know anything about his testimony at all.

Q. You have not read his testimony?—A. I have not read any testimony on the case.

By Senator FORAKER:

Q. You regard him as a truthful man, do you not, Major?—A. I regard Mr. Blyth as a very excellent officer.

Q. And how about his truth and veracity? Have you any doubt about that?—A. No, sir. I had him in charge of a great deal of funds down in my post, and in charge of buildings, and I regarded him as a very honest, very reliable young man, and I picked him out, and that was one of the reasons.

Senator FORAKER. That is all.

By Senator BULKELEY:

Q. The Colonel Glenn whom you spoke of as the counsel of Major Penrose is an army officer, is he not? He is not an attorney?—A. He is both. He is an army officer and he is not a practicing attorney, but he has been admitted to the bar.

Q. But he is an army officer?—A. Yes, sir. He is lieutenant-colonel in command of a recruiting depot now.

By Senator WARNER:

Q. I understand he was appointed also to conduct the defense?—A. Yes, sir; I so understand.

Senator OVERMAN. There is no criticism. I just wanted to know the man who gave the order.

Senator BULKELEY. There was a statement that he was counsel and I just wanted to show that he was an army officer.

(Informal discussion between the members of the committee followed.)

By Senator SCOTT:

Q. Major, in the passage of one of these bullets fired from a new Springfield rifle, in case it should pass within, say, a foot or two of a person, what effect would it have on him, or have you ever investigated it, or have you any knowledge of the effect it would have?—A. I do not know. I never had one of these new bullets pass within a foot or two of me. The only experience I ever had was on the target range during skirmish firing, and at that time the pit was about as far as from this end of the table to you—a hole in the ground about 8 feet down. The markers were in that hole, and we could hear the bullets going by, hitting the target. The first bullet that whizzes by, if it goes wide, goes over the pit. The only effect is that, like any other bullet, it will make you want to duck.

By Senator FORAKER:

Q. If it would go within an inch or two of you and go through your hair, would it have any effect on you?—A. I do not know, sir. I never had that happen.
(Witness excused.)

TESTIMONY OF SECOND LIEUT. HARRY G. LECKIE—Recalled.

By Senator WARNER:

Q. Lieutenant, you measured certain distances at Brownsville?—A. Yes, sir.

Q. Have you a memorandum of those distances?—A. Not with me, sir. I have them at Fort Sam Houston. I have not them here.

Q. Can you give them from memory? That is the only purpose in asking if you have them. Can you give them substantially correct?—A. Well, I can—

Q. Just a moment. Can you give them substantially correct—the distances?—A. Some of them I can and some of them I am not positive of, sir. I can give you the measurements—

Q. I will ask you some questions.—A. (Continuing.) From the Leahy house across the street and the alley correct, sir.

Q. The wall behind the barracks was how high?—A. About 3 feet 4 inches, sir. About 3 feet 2 or 4 inches.

Q. Running up to about what height?—A. Running up to about 5 feet 6 or 8.

Q. And the wall behind B barracks, I understand from you, is about 3 feet 6?—A. About 3 feet 4 inches.

Q. Behind B barracks?—A. Behind D barracks, the first barracks next to the river. Behind B barracks, sir, is about the same.

Q. About the same?—A. Yes, sir.

Q. And behind C barracks?—A. Behind C it is from 3 feet 4 to 5 feet 6 or 8. It gradually rises up, sir.

Q. And each barracks is the same, substantially?—A. It runs from 3 feet 2 or 4 inches up to 5 feet 6 or 8 inches, sir.

Q. What is the width of the garrison road there?—A. Which one, sir?

Q. That is, the road between the town and the garrison. It would be Fifteenth street if it was marked in accordance with the rest.—A. Along here it is a little over 30 feet [indicating on map].

Q. That is behind barracks B?—A. Behind barracks B. The Government has 30 feet outside of the wall. The wall is put 30 feet in on the Government land.

Q. Behind B it is the same thing?—A. About the same.

Q. It runs about the same?—A. About the same all the way up. Up in here I think it is a little wider. I am not positive, but I think the houses set over a little bit [indicating].

Q. That is behind barracks No. 36?—A. Back of 36, sir.

Q. From the corner of Fourteenth street and the alley between Elizabeth and Washington streets, which we have been calling for convenience the Cowen alley, what is the length of that block? It seems to be a short block.—A. From this point here—

Q. That is, from the street to the corner?—A. From Fourteenth street to the garrison wall?

Q. Not to the wall; to the garrison road.—A. I measured from the wall to the corner, and it was either 157 feet or 175 feet.

Q. So that taking the 30 feet out for the road—A. That is counting the road.

Q. I say without the road?—A. Taking the 30 feet out—

Q. It would be that much less?—A. (Continuing.) It would be 30 feet less.

Q. Now, what is the width of the Cowen alley?—A. The Cowen alley is 22 or 24 feet, sir.

Q. You never measured that?—A. No, sir; I never measured that. That is just my idea of it, sir.

Q. And what is the width of Elizabeth street?—A. Elizabeth street, sir, I never measured; but Elizabeth street is about 45 feet, I would say, according to my recollection of it.

Q. You have a rule there, Lieutenant. That map is supposed to be on a scale of 30 feet to the inch.—A. Yes, sir; but that is not correct. All these blocks are not correct, sir.

Q. I know, but taking the width of the street as it is, Elizabeth street—I do not care about that, we will get that accurate afterwards, Lieutenant—you can measure that and tell us what it is.—A. Elizabeth street along here where this black line is [indicating on map] is a part of the property, belongs to the property owner. It is not all this road and streetway.

Q. But as marked on this map, I am asking you?—A. As marked on that, it is 2 inches, which would be 60 feet [measuring on map].

Q. Yes; as it is marked on the map?—A. Yes, sir; from that black line to this one [indicating].

Q. And what is the width of Fourteenth street?—A. The width of Fourteenth street, sir, is about 45 feet. About 44 feet here [measuring].

Q. And what is the width of Thirteenth street? I take it they are the same.—A. About the same, sir.

Q. What is the width of Twelfth street?—A. (Measuring on map.) About the same thing, sir.

Senator FORAKER. Allow me to suggest: Let him measure now and find out whether it was 157 feet or 175 feet, the distance that he measured.

By Senator WARNER:

Q. That is from the corner of the alley to the garrison road?—A. From the corner of the alley to Garrison road here is 165 feet, according to this map [measuring on map].

Q. One hundred and sixty-five according to that map?—A. Yes, sir; it is $5\frac{1}{2}$ inches by the scale.

Q. That is the best we can do now. Now, the length of the block between Thirteenth and Fourteenth streets is what?—A. The length of the block between Thirteenth and Fourteenth streets?

Q. Yes.—A. That is a little over 10 inches.

Q. It would be 300 feet and a little over?—A. Yes, sir.

Q. And the length of the block between Twelfth and Thirteenth streets is the same, substantially?—A. (Making measurement.) That block, sir, is 12 inches.

Q. That would be what?—A. Three hundred and sixty feet.

Q. Now, you only extracted one bullet?—A. That is all, sir.

Q. And you say that bullet weighed how many grains?—A. I did not weigh the bullet, sir. I took it out in small pieces.

Q. The fact of it was, there was not anything of the shape of the bullet left when you took it out, was there?—A. No, sir.

Q. That is, it did not have the shape of a flattened bullet, did it?—A. No, sir.

Q. You took it out in little pieces?—A. I bored it out with an auger, and it came out in the shavings, the little particles of lead.

Q. So that nobody could have seen a flattened bullet that you took out of there?—A. No, sir.

Q. And in about how many pieces or shavings was that bullet taken out?—A. That I could not tell you, sir. I could not tell you how many pieces.

Q. A very considerable number, was it not?—A. Yes, sir; it was a considerable number. It was about 180 to 200 grains of lead.

Q. You did not weigh that?—A. No, sir. I have got that wrapped up now in a cigarette paper in some of my hunting clothes.

Q. As you said, you could not find it?—A. No, sir; I tried to find it afterwards, and could not.

Q. Did you get all the lead out of there?—A. I got it all out, sir. I may have lost some of it in the cutting, naturally.

Q. Do you know what that bullet had gone through before it struck that post?—A. I do not, sir.

Q. You know nothing about that at all?—A. No, sir; that would be impossible for me to tell.

Q. And that was the only bullet that you extracted?—A. Yes, sir.

Q. Now, you noticed a bullet hole in the Garza house?—A. Yes, sir; two of them.

Q. Two of them; and they evidently had been fired from what height?—A. If I may go to the map, sir, I will show you.

Q. Certainly, Lieutenant.—A. One of them, sir, was close to the floor and struck the house about 18 inches from the corner, up the alley. It went through and went out there [indicating on map]. There is about the angle of that bullet, sir [laying pencil on map].

Q. Well, about what angle would that be?—A. About 36—40, sir.

Q. That is the bullet that apparently had been fired from the Cowen alley?—A. The bullet apparently had been fired from the back gate of the Cowen house, in the alley, on a line with the gate.

Q. How could you locate the point from which that bullet was fired, Lieutenant?—A. By running a rod through. I ran a rod through the two holes in the house and let it project out, just as if I would run that pencil through it.

Q. Well, could you approximately tell from that the point from which the bullet was fired?—A. Yes, sir; I think I could.

Q. Have you had much experience in these matters of observation?—A. Not a great deal, sir. I am not a very old man. I have had a good deal of experience, but not a great amount.

Q. Napoleon was not very old when he had lots of experience.—A. Yes, sir; I have not been so fortunate; but I have had a good deal of experience with rifles and ammunition.

Q. I was just asking for your experience in the matter.—A. I have used rifles and guns all my life, and I have hunted a good deal of large game.

Q. You have given one bullet hole in the Garza house.—A. Yes, sir.

Q. Now, the other hole.—A. The foundation of this house, sir, is really brick, faced up with cement—sand and cement. The bullet stuck over the pavement on the outside in that foundation.

Q. On the Fourteenth street side?—A. On the Fourteenth street side, about where that pencil points [indicating].

Q. How high from the ground?—A. Between 8 and 12 inches.

Q. So that shot was fired from where?—A. That shot was either fired from right at the mouth of the alley and Fourteenth street, going down from the post, or from right in the alley; I do not know which.

Q. Now, you mean right in the alley.—A. I mean this point [indicating on map].

Q. To the north of Fourteenth street, as we call that, and up there, east?—A. The north side of Fourteenth street or the west side of the alley, either from right there, sir, or back in here [indicating on map]; not below an angle with the corner.

Q. From the corner of the alley?—A. Yes, sir.

Q. Was there any building on the opposite side of that alley to obstruct it?—A. There was no building to obstruct it. It was fired from the mouth of the alley.

Q. But when you get back in there.—A. When you get back in there, the fence did not show where any bullet had passed through it, and I think there is a little shack back in there, I think about there [indicating on map].

Q. About how far?—A. I don't know; between 5 and 8 feet. Just a dobe shack there. I didn't pay much attention to it.

Q. As I understand, you determined that those bullets had been fired from a high-power gun?—A. I judged that from the penetration, sir.

Q. Now, we will go to the Wreford office. That was in what building?—A. I do not know what name the building goes under.

Q. Was it what is called the King Building?—A. No, sir; it may be King's property, but the King Building is located here [indicating].

Q. We will get that later. What I wanted was to get about the location of that shot in that office.—A. The location of that shot, sir?

Q. Yes.—A. It struck on the Elizabeth street side. The house is located on the west side of Elizabeth street, and it struck between 6 and 7 feet from the ground, between the door—the entrance from Elizabeth street—and the partition of the house.

Q. Did you follow the course of that bullet?—A. Yes, sir. It kept across and went through the partition, and then I could not find it, sir. There is an outhouse out there where they kept all kinds of things stored. The outhouse is a lean-to, and it went through the office and out there, and I could not trace it after that.

Q. Where did that come from?—A. That I could not say.

Q. That, too, as you judged, was from a high-power gun?—A. From the penetration, sir.

Q. Now, take the Miller Hotel. How many bullet holes did you find in that?—A. Five or six, sir.

Q. They also bore evidence, as I understood you to say all of these did, of being from high-power guns?—A. Yes, sir.

Q. Did you determine from the course of those bullets in the Miller house approximately the points from which they had been fired?—A. I can give you my opinion, sir.

Q. Yes.—A. One bullet, the one that struck the second story and went through the screen of the window, was fired from down in the alley, here [indicating on map]. It could not have been fired from anywhere else because of the buildings around it and the walls. That went through the ceiling of the second story and the floor of the third, and then lodged somewhere up in the ceiling of the third story.

Q. Where it entered the second story was about how high up?—A. Where it entered the second story?

Q. Where the ball entered the building.—A. Where it first entered the building?

Q. Yes.—A. About halfway up the window, just above the top of the bottom sash.

Q. That was in the second story?—A. In the second story.

Q. Of the house?—A. Yes, sir.

Q. And that would be about how high above the ground?—A. About 21 feet—21½ feet.

Q. And then it passed upward through the ceiling?—A. Yes, sir.

Q. And taking the point of entrance of that bullet and where it passed through the ceiling, you could determine approximately the point from which it was discharged?—A. No, sir; from where the bullet struck this window, where it struck the ground, is where I determined it from, because the alley is not more than 20 or 24 feet wide and is surrounded by brick buildings and high fences, and that ball was fired from right under the window.

Q. At an elevation?—A. Yes, sir.

Q. At an elevation of 45°?—A. More than that, sir. It was almost perpendicular—straight up.

Q. Now take the Martinez house?—A. I do not know where that is, sir.

Q. It is marked there on the map.—A. This house, sir, the one that belongs to the same man that this property belongs to—the Western Union office?

Q. The Martinez house is at the corner.—A. Of the road and the Cowen alley?

Q. Of the Cowen alley and Garrison road.—A. Yes, sir.

Q. You found several shots in that?—A. I found one.

Q. One?—A. Yes, sir.

Q. Where was that?—A. That was shot through the screen window. This is only a story high, next to the alley. That kept through the house and went into an outhouse and into a barrel of cement or lime, I do not remember which.

Q. Did you trace the course of that bullet?—A. Yes, sir.

Q. Could you tell approximately from where that was discharged?—A. It was discharged from here, sir [indicating].

Q. From Garrison road?—A. That is my opinion, sir, because it is too low down—

Q. Back of barracks B?—A. Back of B barracks; yes, sir [indicating on map].

Q. That is correct, is it?—A. Yes, sir

By Senator FORAKER:

Q. You said it was too low down. What do you mean?—A. There are some buildings there—a woodshed and an oil house—and the bullet did not pass through them.

By Senator WARNER:

Q. You mean it did not come from the barracks, because the barracks were in line of these buildings and the shot?—A. There is not room behind the sheds for a man to stand and fire. It is too close to the wall. A man could squeeze himself in there, but he could not fire very well.

Q. If you will answer my questions we will understand each other. You mean that the course of the ball back of the barracks would have prevented the shot being fired from inside of the wall. But from the course of the bullet, going in that way, you would have no trouble in determining where it was fired from?—A. You can not always tell where a bullet is fired from. It is deflected so much when it strikes anything. My reason for saying that bullet was fired from the road is that it is down lower than the buildings, and instead of going through the house from front to back, it would have gone through the house the other way if it had been fired from the left or the right.

Q. But you took the point of entrance and the point of exit and the point of entrance into the next building?—A. Yes, sir.

Q. And from those you could determine approximately what you have stated?—A. That was what I based my opinion on.

Q. Now, did you examine the telegraph office?—A. Yes, sir.

Q. Did you examine the shot in that office?—A. Yes, sir.

Q. That was in the second story?—A. Yes, sir. It went through the shingles. It has a high, pitched roof, and it went through the shingles.

Q. It first went through the shingles?—A. Went through the shingles and through the first partition, and kept across and went out.

Q. Through the room and went out?—A. Yes, sir.

Q. As to the point of entrance, where it went through the shingles into the room and the point of exit in going out of the room, what was the line of that?—A. The shot entered, sir, about there and went out over here [indicating on map].

Q. I know, Lieutenant, but that means nothing when it is printed in the record. I mean the elevation after it entered and the elevation after it passed through and went out of the room?—A. It entered 2 feet or 2½ feet higher than where it went out. It went out 2 feet or 2½ feet lower down, sir.

Q. What do you gather from that?—A. Well, I placed a wire rod in there, sir, and then went outside and aligned up my eye with the rod, and took the course from where I thought the bullet came.

Q. Where did you locate it?—A. This is the building here [indicating].

Q. Yes.—A. Along about 30 feet from the gate, in the road leading to the river.

Q. You think it could have been fired from the ground?—A. I think undoubtedly it was fired from the ground, sir.

By Senator OVERMAN:

Q. In the rear of D barracks?—A. Yes, sir.

By Senator WARNER:

Q. And the point of entrance was how far from the ground?—
A. Twenty or 22 feet. I guess it is 22½ feet, sir.

Q. How would you make it, coming from that point, the point of entrance being some 2 feet higher than the point of exit?—A. The ball was deflected after it struck the timbers, sir. That bullet went through several pieces of timber, sir. It may have gone at right angles, or it may have gone in any direction, after going through that timber.

Q. But you put a wire through and made this determination?—
A. Yes, sir.

Q. And you think with practical accuracy?—A. Well, that was the most practical thing I could do.

Q. I am asking your opinion.—A. Yes, sir; I think it is as practical as anything you can do. Of course there can be a mistake in it.

Q. Now, about the Starck house?—A. Yes, sir.

Q. How many bullets did you find in that?—A. Five or six in there, sir.

Q. Without stopping to go to each bullet, about what height from the ground did they enter the building?—A. They entered the building, one of them—well, I could touch it—about 7 feet or 7½ feet, sir, above the window, and the others were between the windows and the gutter.

Q. One was in the first story?—A. The house is really a story and a half high. Some of them went through and struck just above the floor in the second story and went out.

Q. But there were one or two above what you call the first story?—
A. Yes, sir.

Q. Did you see the point of exit of that bullet?—A. The rooms in the first or lower story had been repapered, and on that account I could not tell much about it.

Q. Passing to the next, the half story—you say it is a story and a half, and we will call that the second story—you found how many bullet holes there?—A. I traced one there.

Q. There were several there?—A. Mr. Starck told me several came in there.

Q. You traced one?—A. I traced one, sir.

Q. Where was that one you traced?—A. It went through and came out there in that "L."

Q. So that we may get it in the record, it went in which side of the building?—A. It went in the side next to Thirteenth street.

Q. That is, on the south side of the building, as we are pleased to call it?—A. Yes, sir; the south side of the building.

Q. About how far back from the line of the street?—A. Fourteen or 15 feet, sir.

Q. About how high from the ground?—A. Well, between 11 and 12 feet.

Q. From the ground. Was it in the second story of the building?—A. The second story.

Q. And where was the point of exit of that bullet?—A. The bullet went in on this side and went out right in there [indicating].

Q. You determined there in your own mind, from the point of entrance and the point of exit, the direction from which that bullet

was fired?—A. Not from that, sir; but here is the Brownsville Transfer Company here [indicating on map]—

Q. That is at the corner—A. (Continuing.) And between the Brownsville Transfer Company and the Starck house is a high brick wall, and that threw those shots from about the center of Washington street there, sir, where my finger is [indicating on map].

Q. The center of Washington street?—A. Yes, sir.

Q. And about how many feet north of Thirteenth street?—A. How many feet north of Thirteenth street?

Q. Yes; approximately.—A. Forty or 45 feet, sir; maybe 60 feet; I could not say exactly.

Q. Now take the Yturria house. I do not care about dwelling on these matters. Where is that located? That is the one that is marked "7" on the map?—A. Yes, sir; 7 [indicating].

Q. Now, what did you discover there?—A. I found two shots there, sir.

Q. Taking shot No. 1, if you please—that is, not that it is called "No. 1," but take one shot as No. 1.—A. You mean for me just to take any one I choose to take as No. 1?

Q. Yes; take either one you choose as No. 1.—A. This back part has a partition across it [indicating].

Q. That is a lean-to, as you call it, there, or what is it? It seems to be narrower than the other.—A. No, sir; it is an extension of the house. It is not exactly a lean-to, but it is divided across there. That part there is about evenly divided with a partition, and one shot went in and struck a picture and went through the width of that picture.

Q. Lieutenant, again, please, so as to get in it in the record. It entered on the south side, and about how many feet from the alley?—A. From which alley? I do not know that, sir. I did not go back there to the alley.

Q. About how many feet from the west end of the building, then?—A. Well, those rooms were about 12 feet wide, I should say. It is about 24 feet from there to the west end of the building, sir.

Q. Where it entered?—A. Yes, sir.

Q. About what was the height from the ground?—A. About 6½ feet.

Q. And what was its point of exit?—A. The bullet struck either the framework of the windmill or of the water tank, I do not remember now which, and then struck the house and cut through this picture that was hanging on the wall, through the width of the picture, and went out down near the door.

Q. The course of that bullet was at an angle downward how much?—A. Forty-five, sir.

Q. Forty-five. When it struck this windmill that you speak of, that was between the building and garrison road?—A. Either the windmill or the tank.

Q. That is a water tank?—A. In this L, sir; it is about in here.

Q. That is, the cisterns down there are above ground?—A. I do not know that they all are, sir.

Q. In Louisiana we have them above ground, you know. At any rate, this water tank was above the ground. Did you observe the course of the bullet in the tank?—A. No, sir; I could not observe the course of the bullet.

Q. About how high above the ground did that bullet enter the windmill or the tank?—A. I think it is about 7 or 7½ feet, sir.

Q. Could you tell, taking from the point of entrance into the windmill, and where it entered the building, to the point of exit, the probable point from which that was fired?—A. No, sir; I could not.

Q. Why not, Lieutenant?—A. The bullet had been deflected, sir. It was fired at short range. It had not settled down when it struck, sir, and it takes a bullet five or six hundred yards after it is fired to settle down so that you can tell much about it.

Q. But I think you stated in your direct examination that these holes that you saw were made by bullets fired from high-power rifles—that is, .30-caliber bullets?—A. Yes, sir; they were .30 caliber, sir.

Q. And a .30 caliber is fired from the new Springfield rifle?—A. It is fired from the 1898 model, the 1903 model, and from the Winchester, and also the .30-caliber Savage and the .30-caliber Marlin. There are a great many .30-caliber rifles.

Q. Yes; but I just asked you the one question.—A. Yes, sir; it is fired from the 1903 model gun.

Q. The Springfield?—A. Yes, sir; that is the caliber.

Q. Now, that bullet you say can be fired from the Winchester?—A. The 1898 model can be fired from the Winchester, sir.

Q. If fired from the Winchester, it would be marked differently from the way it would be marked if it was fired from the Springfield?—A. How do you mean marked differently?

Q. By the lands.—A. I suppose so.

Q. Do you not know?—A. One has four, and I understand the other has five.

Q. Do you not know?—A. I know if one has four and the other has five lands, the bullets would be marked differently.

Q. Do you know whether it has or not, I asked you?—A. I know that the 1903 model has four lands in it.

Q. Do you know how many lands the Winchester rifle has?—A. I am not positive. I am pretty sure it has five.

Q. And what difference is there, if any, between the steel-jacketed bullet—that is what you call the ball cartridge, is it?—A. The steel jacket?

Q. That is the same as the ball cartridge?—A. No, sir; the ball cartridge is lead.

Q. That is the guard cartridge, as you understand, the ball cartridge?—A. Yes, sir.

Q. The reduced range cartridge?—A. Yes, sir.

Q. Well, take the steel-jacketed cartridge; what is the difference between the bullet of the Springfield and that of the Krag-Jørgensen?—A. None that I can determine, sir.

Q. They are substantially the same?—A. The same, sir. I believe they use the same bullets right now, in making that ammunition up, that they used in the old rifle.

Q. I think that is correct. But can the Springfield ammunition be fired out of the Krag-Jørgensen gun?—A. I do not know, sir. I have been told it can, but I do not know from actual experience.

Q. Who ever told you that it could be?—A. A number of officers on the range.

Q. Did you ever try it?—A. I never tried it, sir. I have tried the other ammunition.

Q. You do not know whether or not it is a fact that the Springfield cartridge—that is, you mean by ammunition, do you not, when the cartridge is loaded?—A. Yes, sir; 1903 model.

Q. (Continuing.) Can be fired from the Krag-Jørgensen?—A. I do not know whether it can or not. The only thing I have had actual experience with is the 1898 model and the box Winchester. I have fired a great deal of that.

Q. You have tried it in what?—A. The 1898 model with the box Winchester. I have fired a great many of them.

Q. Can they be fired out of the Mauser?—A. That I do not know.

Q. Out of a Savage?—A. No, sir. The savage is .30-30.

Q. Can they be fired out of any gun you have mentioned, except the Winchester?—A. Do you mean the 1903 model?

Q. Yes; the ammunition you are using.—A. Of the 1903 model?

Q. Yes.—A. No, sir; I do not know about that. I have been told that the ammunition will go in, that it can be put in, but I do not know about its firing.

Q. Do you not know anything about that?—A. No, sir; we have only had the gun a short while.

Q. Did you go down there to find out about this Brownsville affray?—A. Yes, sir.

Q. You talked with people in Brownsville?—A. The people in Brownsville talked with me, sir, a great deal—I talked with them; yes, sir.

Q. Well, you might have answered the question then, Lieutenant.—A. Yes, sir.

Q. There was no difference of opinion in Brownsville, as you found it, was there?—A. I did not discuss that with them any more than I could possibly help.

Q. I ask you the question, Was there any difference of opinion there, as far as you found, as to who did the shooting?—A. Well, no, sir.

Q. How long were you there?—A. I was there three times, sir. The last time I was there about two days.

Q. That was the time you went down to make this examination?—

A. That was in March; yes, sir.

Senator WARNER. I think that is all I want to ask this witness.

By Senator FORAKER:

Q. Mr. Matlock was present, was he not, when you took that bullet out?—A. Yes, sir.

Q. And whatever you took out he saw?—A. Yes, sir.

Q. He has testified that his recollection of it was that it was flattened out, but enough lead was left in bulk to indicate that it was a bullet. Does that change your recollection about the condition in which you dug it out?—A. When I dug it out, sir, it was in small pieces, cut out. It was a quarter-inch bit that was used.

Q. There is no doubt about your having taken the bullet out?—A. No doubt about that.

Q. Whether it came out in small pieces or came out in bulk?—A. No, sir; there is no doubt about that.

Q. Now, I understood you to say as to that bullet at the Yturria house, you could not fix the location of the gun from which it was fired, because the bullet had been deflected?—A. Yes, sir.

Q. And what was it you told us about the other bullet fired from there?—A. The other one into the Yturria house, sir?

Q. Yes.—A. The course of the other bullet, sir, according to the alignment, was from this direction [indicating].

Senator OVERMAN. From what direction?

By Senator SCOTT:

Q. It is suggested that when you say "this direction" it will not indicate anything in the printed record.—A. It came from the garrison road, sir; from the east; near the wall.

By Senator WARNER:

Q. Back of C barracks, you said?—A. Yes, sir; back of C barracks.

By Senator FORAKER:

Q. That is as near as you can locate it?—A. Yes, sir.

Q. You have no interest whatever of any kind in this regiment, the Twenty-fifth, or in this controversy, have you?—A. No, sir.

Q. You went there because you were ordered?—A. I went there because I was ordered there, sir.

Q. And you are simply reporting to us the facts?—A. I have reported the facts as I saw them.

(The witness was then excused.)

Senator FORAKER. I want to state, so that it will appear in the record, that Lieutenant Wiegenstein, who was brought here to testify about those experiments concerning which Lieutenant Blyth and Major O'Neil and Lieutenant Harbold testified, became ill the day he came here, and he is in the hospital. They send word this morning that he is too ill to come here. That being so, I shall have to reserve the right to call him if I need to later in the progress of this examination. I want to say also that there are a number of other witnesses whom I intended to examine now, but I will let them go until the rebuttal. In order to accommodate the convenience of everybody I will suspend the further examination of witnesses at this point, and in order to determine just when we shall meet again I think we had better have an executive session.

Senator BULKELEY. Just a moment. More or less reference has been made to the Penrose court-martial proceedings, and to the verdict, that they have acquitted Major Penrose, but that they have found the Twenty-fifth Infantry guilty. It has gone out to the country in that way.

Senator WARNER. The verdict shows for itself.

Senator BULKELEY. The verdict does not show what it has been said to show.

Senator WARNER. The verdict will show for itself.

Senator BULKELEY. I should like to have the verdict put in the record.

Senator WARNER. It is all before us.

Senator BULKELEY. I want it put in the record.

Senator FORAKER. The official record of the Penrose court-martial

has not been formally offered, as I understood it would be. When it is offered I shall want to make some investigation on that point and call some witnesses.

Senator WARNER. I have no objection to the verdict being placed in the record. It is found at page 1248 of the proceedings of the court-martial.

Senator FORAKER. I shall want to call the Judge-Advocate-General of the Army in connection with that at the proper time, but I do not want to do so now. The whole matter is before us.

Senator BULKELEY. I think, in view of the fact that we are going to take a recess, and in view of the fact that the statement has gone out under newspaper headlines that the troops were found guilty by the court-martial and that Major Penrose was acquitted, I should like to have the verdict of the court-martial where it can be read.

Senator OVERMAN. It shows for itself what it is.

Senator WARNER. Let it be inserted at this point.

(The finding in the Penrose court-martial, above referred to, is as follows:)

The accused, his counsels, the reporter, and the judge-advocate then withdrew, and the court was closed, and finds the accused, Maj. Charles W. Penrose, Twenty-fifth United States Infantry—

Of the first specification: "Not guilty."

Of the second specification: "Guilty, except the words 'being aware of the feeling of resentment in his command toward citizens of Brownsville, as a result of assaults upon certain individuals of the command, and;' and the word 'inflamed;' and the words 'special vigilance on his part or that of the guard; or to make;' and the words 'and did wholly fail and neglect to take or order sufficient measures or precautions to hold at the post the men of his command, or in any manner to watch, restrain, or discipline said men, by reason of which failure;' substituting for the words 'by reason of which failure' the words 'after which;' and except the words 'to the number of 12 or more were enabled to assemble and;' and of the excepted words not guilty; and of the substituted words guilty."

So that the second specification as amended shall read as follows:

"Specification II: In that Maj. Charles W. Penrose, Twenty-fifth United States Infantry, having been notified by a Mr. Evans, of Brownsville, about 5 p. m. August 13, 1906, of an attack upon his wife by a soldier of the command, and knowing of the feeling existing in the town toward the soldiers as a result thereof, did nevertheless fail to give any orders to Capt. E. A. Macklin, Twenty-fifth Infantry, officer of the day, requiring frequent inspections, or any inspections, during the night after 12 o'clock, after which certain men of his command did assemble, armed with rifles, and did proceed to the town of Brownsville, Tex., and did then and there shoot and wound and kill certain citizens thereof. This at Fort Brown and Brownsville, Tex., August 13 and 14, 1906. And the court attaches no criminality thereto on his part."

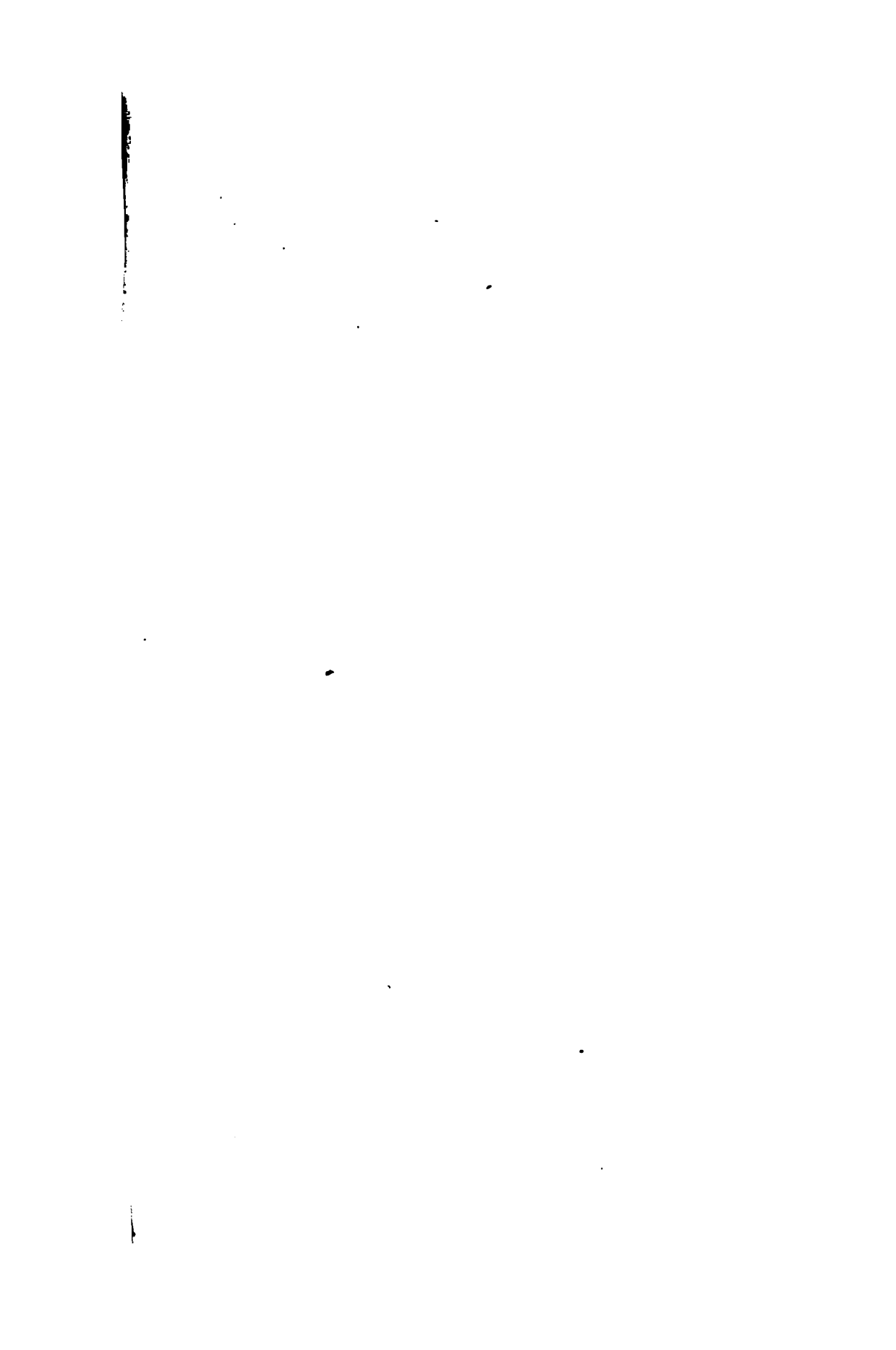
Of the charge: "Not guilty."

And the court does therefore acquit him, Maj. Charles W. Penrose, Twenty-fifth United States Infantry.

At 12 o'clock and 20 minutes p. m. the committee went into executive session, and at 12:30 o'clock p. m. took a recess until 2 o'clock p. m.

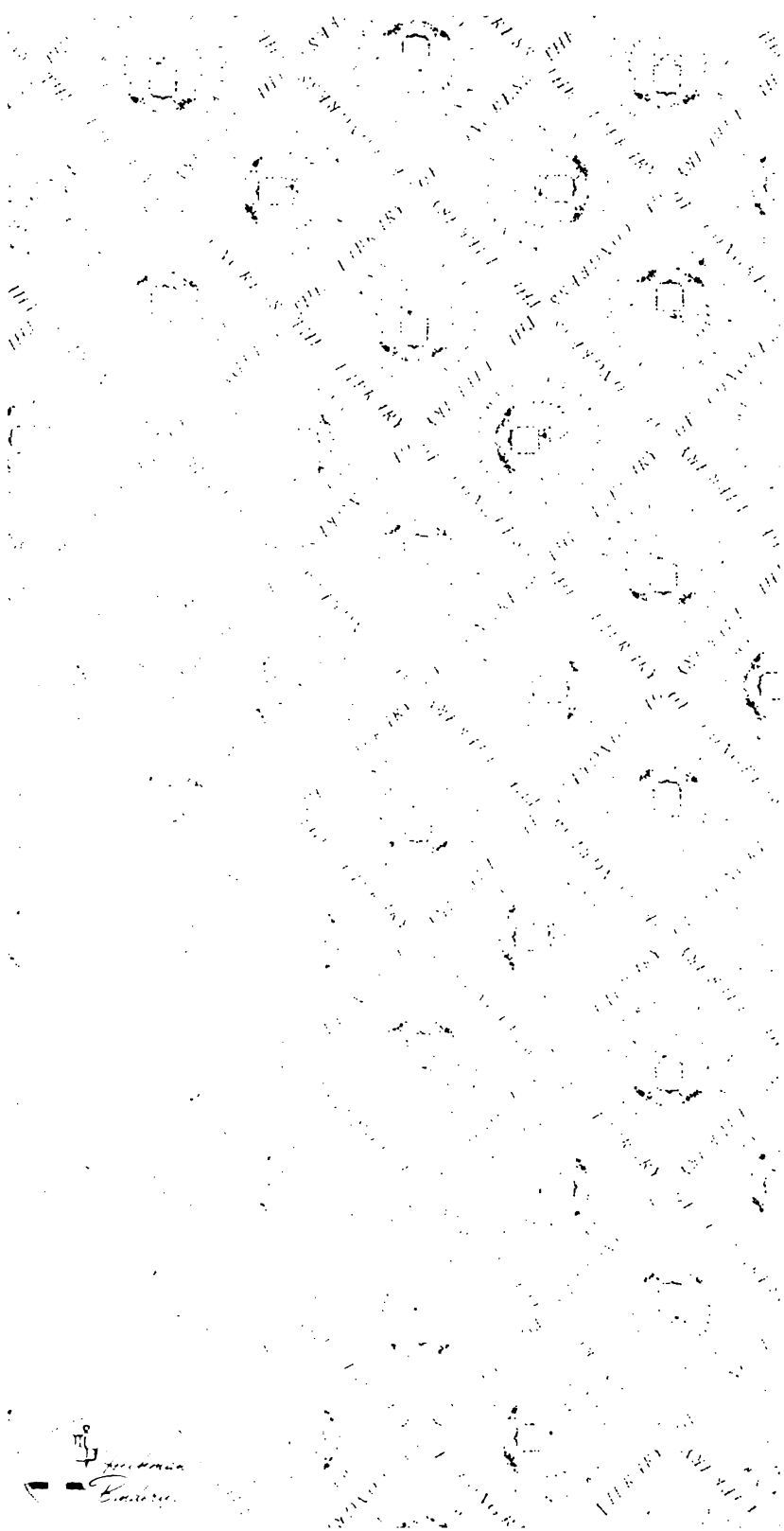
AFTER RECESS.

The committee resumed its executive session at 2 o'clock p. m., and at 3 o'clock p. m. adjourned until Tuesday, May 14, 1907, at 11 o'clock a. m.





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